Town of Duxbury, Vermont

Land Development Regulations

Adopted: (DATE)

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ARTICLE 1 AUTHORITY AND PURPOSE

1.1 Enactment

Zoning, Subdivision and Flood Hazard Regulations for the Town of Duxbury are hereby established in accordance with the Vermont Municipal and Regional Planning and Development Act, Title 24 V.S.A. Chapter 117 (the "Act") and entitled "Town of Duxbury, Vermont Land Development Regulations."

1.2 Purpose

These Regulations are enacted to achieve the goals and purposes established in § 4302 of the Act, to integrate regulatory provisions enabled under § 4419 and § 4424(a)(2) of the Act into one unified set of development regulations, and to implement the goals of the Town of Duxbury Town Plan as most recently amended. The general purposes of these Regulations are to:

A. Facilitate the construction and retention of affordable, stable, safe and energy efficient housing for all Duxbury residents;
B. Protect and enhance the quality of the Town's forest, water, air, wildlife and soil resources;
C. Minimize the subdivision of large forested areas by encouraging and providing incentives for sound subdivision design, cluster development, and other innovative forms of housing;
D. Protect stream and river corridors from further encroachments, and facilitate the removal of existing encroachments and barriers;
E. Protect property and infrastructure from flooding by implementing applicable principles of the Local Hazard Mitigation Plan;
F. Maintain Duxbury's rural character by concentrating smaller scale commercial uses and residential development in areas near services, reducing the strain on infrastructure and providing access to open space for recreation;
G. Provide for business and commercial uses, including commercial food-based and agriculture operations, that do not adversely affect the character of residential neighborhoods or natural resources;
H. Facilitate the continued use of agricultural and forestry lands for these purposes;
I. Protect the productive capacity of prime agricultural soils;
J. Ensure that new and upgraded public roads are constructed to Town standards, to promote safety and resilience;
K. Enable the installation and use of appropriately-sized renewable energy resources.

1.3 Applicability

In accordance with § 4446 of the Act, no land development, subdivision of land or development in the Special Flood Hazard Area, as defined in these Regulations, shall commence in the Town of Duxbury except in conformance with these Regulations. Any land development or subdivision of land not specifically authorized under these regulations is prohibited, unless otherwise exempted under the Act or these Regulations.

1.4 Amendment

These Regulations, including any maps incorporated by reference, may be amended or repealed only in accordance with the requirements and procedures established in § 4441 and § 4442 of the Act.

1.5 Severability

In the event that any part of these Regulations, or their application, is determined to be invalid by a court of competent jurisdiction, such determination shall not affect the validity of any other part of these Regulations or their application.

1.6 Effective Date

In accordance with § 4442(c)(2) of the Act, these Regulations shall take effect immediately upon adoption by the Town of Duxbury, through an affirmative vote of legal voters of the Town by Australian ballot at a regular or special meeting duly warned and held. **All zoning and subdivision regulations previously in effect for the Town of Duxbury are repealed as of the effective date of these Regulations.**

ARTICLE 2 INTERPRETATION AND DEFINITIONS

2.1 Meaning and Interpretation

A. In the construction of these regulations, the following provisions and rules shall be applied, except when the context clearly requires otherwise:

1. "Town" is the Town of Duxbury, Vermont.
2. Words used in the present tense shall include the future and words used in the future tense shall include the present.
3. Words in the singular number shall include the plural and words in the plural number shall include the singular number.
4. The words "shall" and "must" are mandatory and not optional or merely directory.
5. The words "may" and "should" are permissive.
6. The words "used" or "occupied" include the words intended, designed or arranged to be used or occupied, employed for, constructed for, altered for, converted for, rented for, leased for, maintained for, utilized for, or occupied for.
7. The word "includes" shall not limit a term to the specified examples, but is intended to extend its meaning to all other instances or circumstances of like kind or character.
8. The terms "such as" and "for example" shall be considered as introducing typical or illustrative, rather than an entirely exclusive or inclusive designation of, permitted or prohibited uses, activities, conditions, establishments or structures.
9. A "building" or "structure" includes any part thereof.
10. The word "built" includes "erected," "constructed," "reconstructed," "enlarged," or "moved."
11. The word "premises" shall include land and buildings thereon.

12. The masculine gender shall include the feminine and neuter, and vice versa.
13. The words "adjacent" and "next to" shall have the same meaning as "abut."
14. The words "original" and "existing" mean the conditions existing on the effective date of these Regulations.

B. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," or "either...or," the conjunction shall be interpreted as follows:

1. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
2. "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
3. "Either...or" indicates that the connected item, conditions, provisions, or events shall apply singly but not in combination.

C. References made to officials and official bodies shall mean officials and official bodies of the Town of Duxbury, unless the natural construction of the wording indicates otherwise.

D. The word "regulation," "these regulations," "these land development regulations," "this ordinance," or "this bylaw" means the "Town of Duxbury Land Development Regulations."

E. Any word or phrase which is defined in this section, or elsewhere in these regulations, shall have the meaning as so defined whenever the word or phrase is used in these regulations, unless such definition is expressly limited in its meaning or scope.

F. Any word or phrase that is not defined in this section, or elsewhere in these regulations, shall have its plain and commonly accepted meaning.

G. Where uncertainty exists as to the meaning of a word or phrase in these Regulations, the Administrative Officer shall make an interpretation pursuant to the standards in (A) through (F) of this section. Any person may appeal an interpretation of the Administrative Officer to the Development Review Board (DRB) in accordance with the procedures for appeal of a decision of the Administrative Officer in 10.5(A) of these Regulations.

2.2 Definitions

Accessory Apartment. A dwelling unit on a subject parcel that has been approved pursuant to the Duxbury Land Development Regulations as a separate dwelling unit consistent with the provisions of 24 V.S.A. § 4412(1)(E).

Accessory Structure or Building. A structure detached from a principal building on the same lot and customarily incidental and subordinate to the principal building or use. The accessory structure shall be located on the same lot as the principal building or use.

Accessory Structure, Incidental. An accessory structure that has a limited, specific use such as a dog house, child's play house, tree house, greenhouse, chicken coop or other similar structure.

Accessory Use. A use of land or property or a building, or a portion thereof, whose area, extent or purpose is incidental and subordinate to the principal use of the building or land. The accessory use shall be located on the same lot. An accessory use may not be accessory to another accessory use.

Administrative Officer or Zoning Administrator. The person appointed by the Select Board and who has any other authority these Regulations may confer upon him or her to issue zoning permits.

Affordable Housing. Housing that is owned by its inhabitants, whose gross annual household income does not exceed eighty percent (80%) of the county median income, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes and insurance, is not more than thirty percent (30%) of the household's gross annual income, or housing that is rented by its inhabitants whose gross annual household income does not exceed eighty percent (80%) of the county median income, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including rent, utilities and condominium association fees, is not more than thirty percent (30%) of the household's gross annual income.

Alteration. The rearrangement of interior space including the addition of halls, steps, and elevators, or the rearrangement of exterior bearing walls, including new doors or facades, adding or enlarging windows or doors, or addition to or expansion of the existing structure; but not including ordinary maintenance or repair. The term "alteration" includes but is not limited to renovations and restorations.

Appropriate Municipal Panel. A Planning Commission, DRB, or legislative body performing development review in accordance with the provisions of these Regulations.

Basement. Any area of the building having its floor sub-grade below ground level on at least fifty percent (50%) of its perimeter.

Bed and Breakfast. A place of lodging that provides overnight accommodations for not more than six (6) transient guests by the day or by the week. Meals may be provided to registered patrons and their guests, but not to the general public.

Bedroom. Any room within a dwelling that is at least eighty square feet (80 sf.) in area, is susceptible to present or future use as a private sleeping area, and which has at least one window, one closet, and one interior method of entry and exit, excluding closets and bathrooms, allowing the room to be closed off from the remainder of the residence for privacy; or which serves primarily as sleeping quarters within a dwelling.

Boundary Adjustment. A division of land for the purpose of adjusting borders between adjacent lots and parcels where no new lot is created, and no lot or structure is made nonconforming or more nonconforming.

Building. Any temporary or permanent structure, regardless of its composition, having a roof; including any camp, tent, free-standing or self-supported awning, boat, or motor vehicle situated on a parcel and constructed or used for purposes of shelter of any kind.

Building Envelope. The area on a lot within which an allowed building or structure may be placed. A building envelope established by the DRB in an approval made pursuant to these

Regulations may encompass without limitation the area within which limits of land disturbance, construction of impervious surfaces or erection of structures may occur in conjunction with a permitted use.

Building Height. The vertical distance measured from the highest point on top of the structure to the average (of the highest and lowest) preconstruction grade at the foundation or base.

Cemetery. Land used for the burial of the dead, and dedicated for cemetery purposes, including columbaria, crematories, mausoleums and mortuaries when operated in conjunction with and within the boundary of a cemetery. The term "cemetery" shall also include land used for and dedicated to the burial of animals.

Certificate of Occupancy. A required permit allowing use or occupancy of a building, structure or premise after it has been determined that all requirements of applicable ordinances have been met.

Change of Use. The modification of a use of a building or land, or the replacement of a use of a building or land with another use or uses, or the addition of a use or uses to a building or land, or the cessation of a use or uses of a building or land.

Chapter 117. Title 24, Vermont Statutes Annotated, Chapter 117, the Vermont Municipal and Regional Planning and Development Act, as most recently amended. Also referred to as "the Act."

Church. See Place of Worship.

Cellar. A space with less than one-half (½) its floor to ceiling height above the average finished grade of the adjoining ground or with a floor to ceiling height of less than six and one half feet (6½ ft.). A cellar shall not be used for habitable space and shall not be counted as a story in the computation of gross floor area.

Club. An establishment, or group of persons outside of a household, that operates for private social, recreational or educational purposes but usually is open only to members and not to the general public.

Cluster Development. A subdivision design that utilizes modifications of minimum lot size, setback or other site development standards in order to site buildings in a portion of the site, provided there is no increase in the overall density permitted in the applicable zoning district, in order to conserve open space and natural areas on other portions of the site.

Conditional Use. A use permitted in a particular zoning district only upon showing that such use in a specified location will comply with and conform to all the conditions and standards for the location or operation of such use as specified in these Regulations and as approved by the DRB.

Condominium. A building or group of buildings in which the units are owned individually and the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis. Condominium refers to a legal form of real property ownership and not a building style.

Conforming Structure or Use. A structure or use that successfully meets the provisions of the Duxbury Land Development Regulations.

Congregate Housing. A type of housing in which each individual or family has a private bedroom or living quarters but shares with other residents a common dining room, recreational room, or other facilities.

Construction. The act of adding to, altering, or extending an existing structure or the erection of a new principal or accessory structure on real property.

Curb Cut. The opening into the roadway, measured at the property line, at which point vehicles may enter or leave a property.

Cut. A portion of land surface or area from which earth has been removed or will be removed by excavation. Cut also shall refer to the depth below the original ground surface or excavated service.

Day Care Facility. In accordance with § 4412(5) of the Act, "A state registered or licensed day care facility owned or operated by a state licensed or registered operator which is located within a single family dwelling and provides for the care, supervision, and protection of children." Day care facilities shall be permitted in accordance with the provisions of the Act and Section 5.3 of these Regulations.

Demolition. Any act or process that destroys in part or in whole a building, structure, landmark or improvement.

Development Review Board (DRB). The appropriate municipal panel for the Town of Duxbury established under § 4460 of the Act and the provisions of Article 10 of these Regulations.

Driveway. An improved surface providing vehicular access to a land use from a road or highway.

Duplex. See Dwelling, Two-Family.

Dwelling. A building or portion thereof used or designed to be used for human habitation.

Dwelling, Multi Family. A building or portion thereof used or designed to be used as a residence for three (3) or more households, with each occupying a separate dwelling unit, none of which is an accessory dwelling unit.

Dwelling, Single Family. A building that contains one (1) principal dwelling unit and that is not attached to any other dwelling by any means and has no roof, wall, or floor in common with any other dwelling unit. This is also known as a detached or one-family dwelling.

Dwelling, Two-Family. A building containing two (2) principal dwelling units, neither of which is an accessory dwelling unit, that are entirely separated by a vertical wall or horizontal floor, unpierced except for access to the outside or to a common cellar. The units may share a common stairwell exterior to both dwelling units and with access to the outside. There may be a common cellar but not a common basement. This type of dwelling is also known as a Duplex.

Dwelling Unit. A building or portion thereof having independent cooking, bathing and sleeping facilities designated for occupancy as a residence by one (1) household unit only.

Easement. A grant of one or more of the property rights by the property owner to and/or for the use by the public, a corporation, or another person or entity.

Household (Family). One or more persons related by blood, marriage, civil union, legal adoption, or placement in the home for adoption or as foster children; or a group of not more than five (5) unrelated persons, living together as a single housekeeping unit.

Farm. A parcel associated with agricultural use, specifically the cultivation, breeding or raising of plants or animals, and as defined by the most current Vermont Agency of Agriculture Required Agricultural Practices (RAPs).

Farming or Agriculture. One or more of the following activities: The cultivation of or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural and orchard crops; the raising, feeding or management of livestock, poultry, fish or bees; the operation of greenhouses; the production of maple syrup; the on-site storage, preparation and sale of primarily agricultural products principally produced on the farm; the on-site production of fuel or power from agricultural products or wastes produced on the subject parcel; the raising, feeding or management of four or more equines owned or boarded by the farmer, including training, showing, and providing instruction and lessons in riding, training, and the management of equines (Vermont Agency of Agriculture Required Agricultural Practices Section 2.16)

Farm Structure. Any structure defined as a "farm structure" by the most current Vermont Agency of Agriculture Required Agricultural Practices (RAPs).

Fence. Any material or combination of materials erected to enclose, screen or separate areas of land.

Fill. Sand, gravel, earth or other materials of any composition whatsoever placed or deposited by humans for purposes of creating a new elevation of the ground.

Finished Grade. The proposed elevation of the land surface of a site after completion of all site preparation work.

Floor Area. The square footage of all enclosed levels of a building, including storage areas, utility areas and basements but excluding cellars.

Footprint. The outline of the total area of a building or structure including its porches or decks, as defined by the outside perimeter of its foundation or footings.

Footprint Lot. A form of property ownership featuring individual ownership of the area within the surrounding exterior walls of a building or portion of a building or buildings, and common ownership of the remaining land area including without limitation driveways, service areas, lawns, landscaped areas and open space.

Forestry Operations. Activities related to the management of forests, including a timber harvest; pruning; planting; reforestation; pest, disease and invasive species control; wildlife habitat management; and fertilization. "Forestry operation" includes the primary processing of forest products of commercial value on a parcel where timber harvest occurs (10 V.S.A. § 2602(e)).

Foundation. A permanent structure that supports a building or its component elements including but not limited to porches and decks. The term "foundation" shall also include walls, poured or compacted slabs, Sonotubes®, piers, or other footings that provide a base for structural support.

Fuel Sales. Any lot or area of land including the building or buildings thereon, that is used for the sale of motor vehicle fuels, lubricants, coolants, and related automotive products. The sale of food and other unrelated convenience items may be approved as an accessory use to fuel sales.

Garage, Private. An accessory structure, either attached to or separate from the primary structure, intended for parking and/or storage of motor vehicles for personal use.

Grade. The elevation of the land or land level at a specific point.

Grading. Any stripping, cutting, filling, stockpiling of earth or land, including the land in its cut or filled condition.

Gross Floor Area. The sum of all floor areas of all stories and finished basements of a building, measured from the exterior face of exterior walls, or from the centerline of a wall separating two attached units or structures.

Hazardous Material. All petroleum-based and/or toxic, corrosive, or injurious substances, chemicals, and/or related sludge, as included in any of the following:

a) Any substance defined in Section 101(14) of the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980;

b) Petroleum, including crude oil or any fraction thereof; or

c) Hazardous wastes, defined in Section 101(9) of the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980.

NOTE 1: "Hazardous material" does not include herbicides and pesticides when applied consistent with good practice conducted in conformity with federal, state and local laws and regulations and according to manufacturer's instructions.

NOTE 2: "Hazardous material" does not include livestock wastes.

Hazardous Waste. Any waste or combination of wastes of a solid, liquid, contained gaseous, or semi-solid form, including, but not limited to those that are toxic, corrosive, ignitable, reactive, strong sensitizers, or which generate pressure through decomposition, heat or other means, and which in the judgment of the Secretary of the Vermont Agency of Natural Resources may cause, or contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, taking into account the toxicity of such waste, its persistence and degradability in nature, and its potential for assimilation, or concentration in tissue, and other factors that may otherwise cause or contribute to adverse acute or chronic effects on the health of persons or other living organisms, or any substance which may have an unusually destructive effect on water quality if discharged to ground or surface waters of the state.

NOTE 1: All special nuclear, source, or by-product material, as defined by the Atomic Energy Act of 1954 and amendments thereto, codified in 42 U.S.C. § 2014, is specifically excluded from this definition.

NOTE 2: The storage and handling of livestock wastes and by-products are specifically excluded from this definition.

Home Occupation. Any use conducted entirely within a dwelling or accessory structures and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. Home occupations shall be subject to the definitions and standards in Section 5.6 of these Regulations.

Impervious Surface. Those man-made surfaces including paved and unpaved roads, parking areas, roofs, driveways, and walkways, from which precipitation runs off rather than infiltrates.

Improvement. Any permanent structure that becomes part of, is placed upon, or is affixed to a parcel.

Inn. A building or group of buildings with up to twenty (20) guest rooms where overnight lodging is provided for compensation, and meals are provided. If meals are provided to persons other than overnight guests of the property, no more than fifty (50) seats including bar stools shall be permitted unless a restaurant use is permitted by the DRB for the property.

Interested Person. An individual or entity who has participated in a municipal regulatory proceeding authorized under the Act who may appeal a decision rendered in that proceeding by a Town agent, board or panel, to the Vermont Environmental Court.

Junkyard. Any place of outdoor storage or deposit which is maintained, operated or used (whether singly or in connection with a business) for storing, keeping, processing, buying or selling junk, or as a scrap metal processing facility. The term "junkyard" shall include any place of outdoor storage or deposit that is maintained or used for storing or keeping four (4) or more wrecked or disabled, unregistered and/or uninspected motor vehicles, trailers, campers and tow-behinds, or boats. This term does not apply to a commercial garage where wrecked or disabled motor vehicles are stored less than ninety (90) days for inspection or repairs.

Land Development. The division of a parcel into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement, and any change in the use of any building or other structure; any mining, excavation or landfill; or any extension of use of land; provided, however, that land development shall not include the construction of fences on farms as defined in these Regulations.

Land Disturbance. Any activity that disturbs or breaks the topsoil or results in the movement of earth on land.

Light Industry. The processing and fabrication of materials and products where no process involved will produce air pollution, fire hazard, or any noxious emission exceeding the performance standards in Article 12 of these Regulations. No such use shall have more than 20 employees or occupy more than 20,000 square feet of gross floor area.

Lot. A definable unit of land in common ownership occupied or capable of being occupied by one or more structures or uses.

Lot Boundaries are (a) established by a deed or deeds recorded in the Duxbury Land Records, and the records of any public road right-of-way; or (b) shown on a plat approved by the Town of Duxbury pursuant to these Regulations, provided such approval has not expired.

Lot, Corner. A lot located at the intersection of two streets that meet at an interior angle of less than 135 degrees. The point of intersection of the street lot lines is the corner.

Lot, Flag. A lot with no frontage on or abutting a public road and where access to the public road is by a right-of-way usually granted by easement over another lot with the normally required lot frontage.

Lot, Through. A lot other than a corner lot with frontage on more than one street

Lot Area. The total area within the property lines of a lot, excluding any part thereof lying within the boundaries of a public street, or proposed public street.

Lot Coverage. The total area covered by all principal and accessory buildings and impervious surfaces on a lot, unless otherwise specified in these Regulations.

Lot Depth. The distance measured from the front lot line to the rear lot line. Where the front and rear lot lines are not parallel, the lot depth shall be measured by drawing lines from the front to rear lot lines at right angles to the front lot line, every ten feet, and averaging the length of these lines.

Lot Frontage. The continuous length of the front lot line measured along the public road right-of-way line, or the length within a lot of a continuous line parallel with the street and measured along the minimum required front yard.

Lot Line. A property line of record bounding one lot from another lot or from a public or private road or any other public or private space.

Manufacturing. Any process whereby the nature, size or shape of articles or raw materials are changed, or articles are assembled and/or packaged. Processing of agricultural or silvicultural products on the premises where the materials were produced shall not be considered manufacturing for purposes of these Regulations.

Mixed Use. A lot, building or structure containing more than one separate space intended for any combination of two or more different uses provided for in Table B, such as, but not limited to, residential, office, manufacturing, retail, public or recreation use.

Mobile Home. A structure or type of modular or manufactured home that is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation, includes plumbing, heating, cooling, and electrical systems, and is (a) transportable in one or more sections; and (b) at least eight feet (8 ft.) wide or forty feet (40 ft.) long or when erected has at least three hundred twenty square feet (320 sf.) or if the structure was constructed prior to June 15, 1976, at least eight feet (8 ft.) wide or thirty-two feet (32 ft.) long; or any structure that meets all the requirements of this subdivision except for size and for which the manufacturer voluntarily files a certification required by the U.S. Department of Housing and Urban Development and complies with the standards established under Title 42 of the U.S. Code. (10 V.S.A. § 6201(1)).

Mobile Home Park. Any parcel of land under single or common ownership or control which contains, or is designed, laid out or adapted to accommodate, more than two mobile homes. Nothing herein shall be construed to apply to premises used solely for storage or display of mobile homes. Mobile home park does not mean any parcel of land under the ownership of an agricultural employer who may provide up to four (4) mobile homes used

by full-time workers or employees of the agricultural employer as a benefit or condition of employment or any parcel of land used solely on a seasonal basis for vacation or recreational mobile homes. 10 V.S.A. § 6201(2). The agricultural exemption does not apply in a Special Flood Hazard Area.

Moderate Income Housing. Housing that is affordable, according to the U.S. Department of Housing and Urban Development, for either home ownership or rental, and that is occupied, reserved, or marketed for occupancy by households with a gross household income that is greater than fifty percent (50%) but does not exceed eighty percent (80%) of the median gross household income for households of the same size within the housing region in which the housing is located.

Modular (or Manufactured) Home. A factory-built structure which is manufactured or constructed to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be attached or towed behind a motor vehicle, and which does not have permanently attached to its body or frame any wheels or axles.

Motor Vehicle. Any mechanically powered medium of transport designed to move people or cargo including, but not limited to, aircraft, watercraft, automobile, bus, truck, tractor, trailer (excluding a mobile home), mower, tank, recreational vehicle, go-cart, motorcycle, snowmobile, or all-terrain vehicle, regardless of whether the device is currently functional.

Municipal Facility. A structure owned and operated by the Town of Duxbury or other municipal organization, including without limitation office facilities, town garages, sand and salt sheds, recreational pavilions, and trash collection and recycling facilities.

Net Metered Power System. A water, solar or wind-powered, grid-connected mechanism for the generation of electricity, regulated by the Vermont Utility Commission under 30 V.S.A. § 248 and exempt from local zoning regulations.

Nonconforming Lot or Parcel. A lot or parcel that does not conform to the present bylaws covering dimensional requirements but which was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a lot or parcel improperly authorized as a result of error by the administrative officer. 24 V.S.A. § 4303 (13).

Nonconforming Structure or Use. A structure or part of a structure, or a use of land, that does not conform to the present bylaws but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a structure improperly authorized as a result of error by the administrative officer. 24 V.S.A. § 4303(14) and (15).

Nonconformity, Degree of. The extent to which a structure encroaches upon, or otherwise violates, one or more dimensional standard of these regulations. Any extension of a structure that results in an additional encroachment of the non-conforming feature/element, including the expansion of the volume or area of a structure within a building setback, or the area occupied by a non-conforming use, increases the degree of nonconformity.

Office. A room or group of rooms used for conducting the affairs of a business, profession, service, industry or government.

Open Space. That undeveloped portion of any development parcel or lot which is not occupied by buildings, streets, rights-of-way, driveways, parking spaces, house lots, individual yard areas, or lands so intensively used as to render them, in the judgment of the DRB, inconsistent with this definition.

Ordinary High Water Mark. The line on the shore or streambank established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

Outdoor Storage. The keeping, in an unroofed area, of any goods, junk, material, merchandise, or vehicles in the same place for more than twenty-four hours.

Owner. Any individual, firm, partnership, association, joint venture, corporation or other entity or combination thereof who alone, jointly or severally with others hold(s) legal or equitable title to any real property.

Parcel. A tract of land capable of being described in definitive terms, under ownership by any entity, which may be divided by a public road or right-of-way and which may contain more than one lot.

Parking, Off-Street. A reasonably level area sized and designed to accommodate the temporary parking of motor vehicles, which is usually surfaced or improved.

Parking Space. An off-street space used for the temporary location of one licensed motor vehicle, which is at least nine feet (9 ft.) wide and eighteen feet (18 ft.) long, not including access driveways, and having direct access to a driveway, street or approved right-of-way.

Permitted Use. A use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

Person. An individual, a corporation, a partnership, an association, and any other incorporated or unincorporated organization or group.

Place of Worship. A structure or group of structures which by design, construction or use are primarily intended for the conduct of organized religious services and associated accessory uses.

Plan. The Municipal Comprehensive Plan for the Town of Duxbury adopted under 24 V.S.A. § 4348.

Planned Unit Development (PUD). A residential, mixed use, or non-residential development, approved by the DRB in accordance with Article 7 of these Regulations, designed and planned as an integral unit, and that may consist of individual lots which may not satisfy all of the dimensional requirements otherwise contained in these Regulations.

Planning Commission. The Planning Commission for the municipality established under Subchapter 2 of the Act.

Plat. (A) A map representing a tract of land showing the boundaries and location of individual properties and streets; (B) a map of a subdivision.

Pre-Construction Grade. The elevation of the ground level in its natural state, before construction, filling or excavation. This is also known as natural grade, and shall be defined as the grade existing on a property on the date of an application under the Duxbury Land Development Regulations for any development approval unless another grade has been established as the pre-construction grade. Where land is subject to subdivision or PUD approval by the DRB, the grade shown on the approved subdivision plat shall constitute the pre-construction grade, unless modified or otherwise approved by the DRB in conjunction with its approval.

Principal Use or Structure. The primary purpose, application or function of, or the main assembly of materials for occupancy, use or display located upon any subject lot.

Public Notice. The form of notice prescribed by 24 V.S.A. Sections 4444, 4449, or 4464 as the context requires.

Public Facility. A site or structure that serves one or more needs of the community, including but not limited to state- or community-owned and operated institutions and facilities; any public or private school or other educational institutions certified by the state Department of Education; public and private hospitals; certified regional solid waste management facilities and certain hazardous waste management facilities under 24 V.S.A. § 4413(F).

Public Utility. (A) Any person, entity, agency or establishment which, under public franchise or ownership, or under certificate of convenience and necessity, generates, transmits, distributes and/or provides the public with some commodity or service which is of public consequence and need, such as but not limited to electricity, gas, water, transportation, telephone, or wastewater treatment; or (B) A closely regulated private enterprise with a franchise for providing a public service.

Recreation, General. Leisure pursuits occurring on private or public land that contains any structure designed to enhance those activities, and which is accessible to the general public or private membership. The two types of General Recreation are:

A. Indoor: Including but not limited to indoor bowling alley, theater, table tennis, pool hall, skating rink, spa/gymnasium, swimming pool, hobby workshop or similar building-centered, sheltered, recreation. Such facilities may or may not include the sale of food and/or beverages as an accessory use.

B. Outdoor: Including but not limited to cross-country skiing, snow-shoeing, cycling, skating, fishing, swimming, hiking, running, horse trails and riding rings, and use of motorized vehicles.

Recreation, Passive. Leisure pursuits occurring on private or public land that contains no type of structure designed to enhance those activities, including but not limited to cross-country skiing, snowshoeing, ice skating, cycling, fishing, swimming, hiking, running, horse trails and riding rings, and personal, but excluding commercial, use of motorized vehicles on materially unenhanced surfaces.

Recreational Vehicle (RV) or Travel Trailer. A motor vehicle designed for road travel, camping or other temporary use, that is (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projections; (c) designed to be self-propelled,

towable by a light duty truck or mounted in the bed of a light duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Recreational Vehicle (RV) or Travel Trailer Park – Any land used or designed to be used as a parking space for more than one (1) recreational vehicle or travel trailer.

Repair. Any change that is not construction, removal or alteration.

Required Improvements. Capital improvements required in conjunction with an approved subdivision or land development, including without limitation monuments, lot markers, roads, curbs, sidewalks, signs, lighting, water and wastewater treatment facilities, stormwater management or erosion control measures, and landscaping.

Residential Care Facility. An institution or facility other than a hospital or nursing home, operated under state licensing or registration, that provides care for persons who have a handicap or disability, or physical or mental impairment, as defined in 9 V.S.A. § 4501(2) and (3), and which does not include facilities for the treatment of illness or injuries (other than minor acute illness) or for surgical care; or a residential facility or transitional housing for the developmentally disabled, victims of domestic violence, or homeless persons and households.

Restaurant. An establishment where food and drink is prepared and served to the general public. The term "restaurant" does not include self-propelled or towable facilities, such as food trucks.

Resubdivision. A second, or subsequent partition of a parcel that has already been divided into smaller parcels or lots.

Retail Use. The usual and customary use of enclosed restaurant, café, shop and/or store for the sale of goods at retail, and the provision of personal or professional services, excluding any drive-up or drive-through service, free standing retail stand, fuel sales, motor vehicle repair service, new or used car sales and service, and trailer and mobile home sales and service. Retail use, for purposes of these Regulations, is characterized by regular hours, the use of signs and advertising, and provision for customer parking.

Right-of-way (ROW). An area of land that is granted, through deed, easement, or other mechanism, and usually to serve the public good, such as for a highway, rail line or utility. The legal right of passage over the land is reserved for the purposes of maintenance or expansion of existing services within the right-of-way.

Road. Any highway, street, lane or other way commonly used by the public for vehicular traffic. The term "road" does not include driveways, or access ways used solely for agriculture or forestry purposes.

Seasonal Dwelling or Camp. A dwelling unit which is not a primary residence of the owner or occupant, and is occupied only on a part-time and seasonal basis, for no more than six (6) consecutive months. Seasonal dwellings are often characterized by the absence of utilities, standard water supply and septic systems, and weatherization.

Setback. Any distances from the ends and/or sides of a lot beyond which construction may not extend. Also known as a "building line," setbacks are established by these Regulations

and vary from zoning district to district. The distance is always calculated from the outside (exterior) edge of a structure's point of maximum projection (foundation, deck, or eave) to the lot line.

Sign. Any words, lettering, parts of letters, logos, symbols, figures, numerals, phrases, sentences, emblems, devices, designs, or trademarks by which anything is made known, such as are used to designate an individual, a firm, an association, a corporation, a profession, a business, or a commodity or product, and which may be visible from a public road or right-of-way and are used to attract attention

Sign, Freestanding. Any self-supporting sign that is installed in the ground, not including movable or folding sandwich-board type signs.

Sign, Permanent. Any freestanding sign, or sign that is affixed to any building, and which is installed for a period of indefinite duration, not including movable or folding sandwich-board type signs.

Sign, Temporary. Any sign that is installed for a period of limited duration, including movable and/or sandwich-board type signs.

Sign, Unpermitted. Any permanent or temporary sign that does not conform with these Regulations or does not have an approved permit on record; or which is installed in a public right-of-way in violation of these Regulations.

Single and Separate Ownership. The ownership of property by any person which is separate and distinct from the ownership of any adjoining property.

Site Plan. The development plan for one or more lots on which is shown the existing and proposed condition of the lot(s).

Storage Units. A structure containing separate, individual and private storage spaces of varying sizes leased or rented on individual leases for varying periods of time.

Structural Alteration. Any change in the supporting members of a building, such as bearing walls, columns, beams or girders, or in the dimensions or configurations of the roof or exterior walls.

Structure. An assembly of materials for occupancy or use, including, but not limited to a building, mobile home, trailer, sign, wall or fence, swimming pool, pond, curtain drain, standpipe, antenna or communication tower, free-standing satellite dish with a diameter greater than thirty-six inches (36 in.), flag pole, playground equipment, bridge, boardwalk, dock, deck, porch or patio. By definition, all buildings are structures, but not all structures are buildings. The term "structure" specifically excludes elements built at grade without a foundation or pier support, including but not limited to walking or riding trails or playing fields that are materially unenhanced; raised garden beds, sidewalks, driveways; and berms, swales, walls less than three feet (3 ft.) in height as calculated from pre-construction grade, and assembled from materials native to the parcel (i.e., not imported from off-site) that have been rearranged or relocated on the parcel.

Structure, Attached. Any structure that is attached to a building by a common wall, by a roof, or by structural connections that allows pedestrian access to both structures, including but not limited to decks, stairways or breezeways.

Subdivision. The division of a lot, tract, or parcel of land into two or more lots, tracts, or parcels or other divisions of land for sale or development. A subdivision shall also include the redivision or relocation of the lot lines of any lot or lots within a subdivision previously approved, an amended subdivision, the division of land held in common among several owners, and Planned Unit Development (PUD) approval.

Substantial Damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its pre-damage conditions would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

Substantial Improvement. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specification which have been identified by a code enforcement official and which are the minimum necessary to ensure safe living conditions.

Swimming Pool. Any pool or other structure used for swimming (other than a natural or man-made pond), above or below ground level, that contains two feet (2 ft.) or more of water at its deepest, whether for public, private or commercial uses.

Telecommunications Facility. A tower or other support structure, including antennae, that will extend twenty feet (20 ft.) or more vertically, and related equipment, and base structures to be used primarily for communication or broadcast purposes to transmit or receive communication or broadcast signals. The term "telecommunications facility" includes towers and ancillary facilities.

Temporary Structure. Any structure which can be relocated easily, has no permanent foundation, is designed for limited use, is less than one hundred square feet (100 sf.) in area, and is erected for no longer than six (6) months per year.

Town Plan. See Plan.

Use. The specific purpose or activity for which a structure, building or land is or may be designed, arranged, designated or intended or for which a structure, building or land is or may be occupied and maintained. Categories of use include:

A. Allowed Use: Utilization that does not require a Zoning Permit;

B. Permitted Use: Utilization that requires a Zoning Permit, and conformity with other provisions of these Regulations;

C. Conditional Use: Utilization that review and approval with conditions attached by the DRB; and

D. Prohibited Use: Utilization that is not permitted in the Town of Duxbury.

Variance. A deviation from the land use or density requirements of these Regulations as may be granted by the DRB under § 4469(a) of the Act.

Vernal Pool. A small wetland in a shallow natural depression that typically fills with water during the spring and/or fall and may dry during the summer. Vernal pools have no

permanent inlet stream and no viable populations of fish. Vernal pools are typically sparsely vegetated with herbaceous plants and are shaded by trees from the surrounding upland forest. Many vernal pools provide critical breeding habitat for amphibians.

Waiver, Dimensional. A relaxation of the minimum distance or dimensional requirements of these regulations as may be granted by the DRB as authorized under § 4414(8) of the Act and these Regulations.

Wetlands. Those areas of the state that are inundated by surface or groundwater with a frequency sufficient to support vegetation or aquatic life that depend on saturated or seasonally saturated soil conditions for growth and reproduction. Such areas include marshes, swamps, sloughs, potholes, fens, river and lake overflows, mud flats, bogs, and ponds, but excluding such areas as grow food or crops in connection with farming activities.

Yard. The open space extending the full width of the lot with a principal building, unoccupied and unobstructed from the ground upward, except as otherwise provided for in these regulations.

Yard, Front. An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the street line and the nearest line of any above ground structure.

Yard, Rear. An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest line of any above-ground structure.

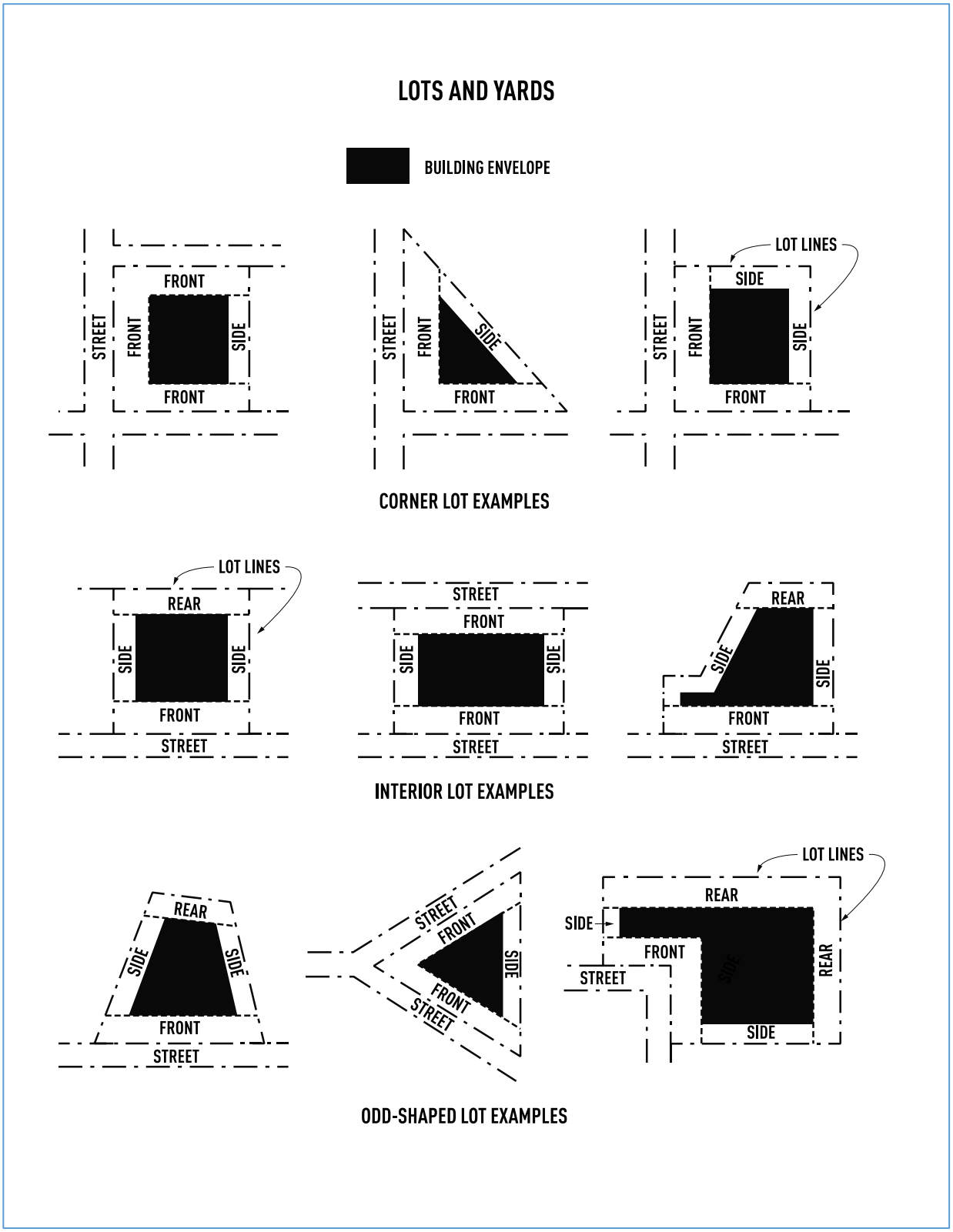
Yard, Side. An open space between an above ground structure and the side lot line extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point of the side lot line to the nearest point of any above ground structure.

Zoning District. A specifically delineated area or district within the corporate limits of the Town of Duxbury for which the requirements governing use, placement, spacing, size, lot dimension and bulk of buildings and premises are uniform.

Zoning Map. The Zoning Map or Maps of the Town of Duxbury, Vermont, together with all amendments subsequently adopted which are part of these Land Development Regulations and which delineate the boundaries of the zoning districts.

Zoning Permit. A document signed by the Administrative Officer, as required in these Regulations, as a condition precedent to the commencement of land development in accordance with these Regulations (commonly known as a Building Permit), and § 4449 of the Act.

Figure 1 Yards



ARTICLE 3 ZONING DISTRICTS

3.1 Zoning Map; Interpretation of Boundaries

A. The location and boundaries of each zoning district are shown on the adopted "Town of Duxbury Zoning Map," which is incorporated as part of these Regulations. The adopted Zoning Map, which is located in the Town Clerk's office, shall be the final authority as to the current zoning status of land within the Town.

B. The Administrative Officer shall determine zoning district boundaries according to the adopted Zoning Map. Where uncertainty exists, the Administrative Officer shall use the following rules to locate any zoning district boundary. An interpretation by the Administrative Officer of a zoning district boundary may be appealed to the DRB, in accordance with the provisions in Section 10.5.

1. Boundaries indicated as following roads, transportation or utility rights-of-way shall be interpreted as following the centerlines of such features.
2. Boundaries indicated as following lot lines shall be interpreted as following delineated property boundaries.
3. Boundaries indicated as following rivers or streams shall be interpreted as following the channel center lines of such features, and shall move with the river or stream channel.
4. Boundaries indicated as parallel or perpendicular to, or extensions of, the above features shall be interpreted as such on the ground.
5. Distances not specifically indicated on the map shall be determined from the scale on the adopted Zoning Map.

3.2 Lots in More than One Zoning District

When a lot proposed for land development as defined in these Regulations includes portions in more than one zoning district, the following provisions shall apply:

A. The Zoning Administrator may approve zoning applications for permitted use activities when conducted in a location of the lot that satisfies the minimum area requirement for development in that zoning district.

B. The DRB may approve permitted or conditional uses allowable in either zoning district to be sited within fifty (50) feet of the district boundary.

C. In conjunction with conditional use or PUD approval, the DRB shall have the authority to waive minimum frontage and setback requirements for structures to be located in more than one district. However, in no case shall the minimum frontage and minimum setback requirements for the structure be less than the least restrictive standard for either of the districts in which the structure is to be located, unless a waiver is specifically granted by the DRB for the reduction in conjunction with the associated approval.

D. The creation of new lots with sections in more than one zoning district can only be

created if the minimum area for lot size is available in at least one of the districts of both the new lot and the retained lot, and the subdivision must not create a non-conforming condition for existing uses or structures.

E. For existing lots without the minimum required lot area in any zoning district, the Zoning administrator may approve a permitted use permit for development in the section of the lot that most satisfies the minimum lot area for that zoning district.

3.3 Zoning Districts

For the purpose of these Regulations, the Town of Duxbury is hereby divided into the following zoning districts:

A. Ecological Reserve Lands District. The Ecological Lands District shall include all lands with an elevation of twenty-five hundred feet (2500 ft.) or more above sea level. The purpose of this district is to protect wildlife habitat functions, prevent erosion, and preserve natural vegetative cover in the Town's higher elevation lands, while permitting agricultural, forestry, low-intensity, non-commercial recreation, and conservation uses.

B. Timber Management and Wildlife District. The Timber Management and Wildlife District shall include those lands with an elevation of fifteen hundred feet (1500 ft.) or greater, but less than twenty-five hundred feet (2500 ft.), above sea level. The purpose of this district is to accommodate a limited number and type of residential, recreational and agriculture or forestry uses and structures at very low densities in a manner consistent with the protection of wildlife habitat functions and natural vegetative cover, and preventing erosion.

C. Forest Recreation District. The Forest Recreation District shall include all lands with an elevation of less than fifteen hundred feet (1500 ft.) above sea level that are not incorporated in the Rural Agricultural, Village, or State Farm Districts as depicted on the Official Zoning Map of the Town of Duxbury. The purpose of this district is to accommodate residential, recreational and agriculture or forestry uses, and a limited range of other non-residential uses, at low densities and in a manner consistent with the protection of wildlife habitat functions and natural vegetative cover, and preventing erosion.

D. Rural Agricultural I and II Districts. The Rural Agricultural I and II Districts shall include lands as depicted on the Official Zoning Map of the Town of Duxbury. The purpose of the Rural Agricultural I and II Districts is to accommodate a range of uses that are primarily residential in nature, along with forestry and agricultural uses and some related structures, at a transitional density between the Village District and Forest Recreation District, in areas of the Town with greater access to services and transportation than in the Forest Recreation, Timber Management and Wildlife, and Ecological Reserve Lands Districts. It is a further purpose of this District to accommodate a limited range of non-residential uses at densities and scales consistent with the residential development pattern of the surrounding District, and consistent with the available capacity of roads and services.

E. Village District. The Village District shall be as depicted on the Official Zoning Map of the Town of Duxbury. The purpose of the Village District is to foster a district of primarily residential uses, with complimentary non-residential use, in the area of the Town with the greatest proximity to transportation and services. It is the purpose of this District to enable land use and development at a scale and development pattern that is higher density than elsewhere in the Town, with allowances for a variety of residential structures and housing types, and flexibility in the use of sites and structures to accommodate uses permitted in the District. It is the further purpose of this District to incorporate standards and regulations that enhance the compatibility of non-residential uses with the primary residential function of the District, and the capacity of available transportation networks and services.

F. State Farm District. The State Farm District shall incorporate all lands as depicted on the Official Zoning Map of the Town of Duxbury. The purpose of the State Farm District is to facilitate limited development on the former State Farm property, with an emphasis on conservation and agriculture, as set forth in the Vermont State Farm in Duxbury Preliminary Master Plan, dated August 20, 1993 and developed by the Vermont State Farm in Duxbury Project Committee, and as depicted on Sheet 1a, Land Use Plan dated February 17, 1997 prepared by the Cavendish Partnership for the Vermont Department of State Buildings.

1. State Farm District – Crossett Hill Subdistrict: All residential development shall be part of a PUD approved under Section 7.2 of these Regulations.

2. State Farm District – River Road Subdistrict: Land in this Subdistrict is permanently conserved by a conservation easement for conservation, recreation, agriculture or forestry.

3. State Farm District – Plateau Subdistrict: Land in this Subdistrict is limited to permitted and conditional uses as described in Table B.

4. State Farm District – Wetland Subdistrict: Land in this Subdistrict is permanently conserved by a conservation easement for conservation, recreation, agriculture or forestry.

5. State Farm District – Middle School Subdistrict: Land in this Subdistrict serves the Crossett Brook Middle School.

6. State Farm District – Barn/Buildings Subdistrict: This Subdistrict is intended to create a compact village center containing a mixture of commercial and public uses, using the middle school recreation fields as a village green.

7. State Farm District – Cemetery Subdistrict: This Subdistrict has high visibility and aesthetic value and is intended for a mix of single family residential and compatible commercial use.

G. Flood Hazard Overlay District. Flood Hazard Overlay District lands in the Town of Duxbury shall be those areas identified as Areas of Special Flood Hazard on the Washington County, Vermont Flood Insurance Rate Maps, hereinafter referred to as the FIRM maps, as most recently published by the Federal Emergency Management Agency (hereinafter FEMA). (See Article 11)

ARTICLE 4 DIMENSIONAL STANDARDS

4.1 Applicability of Regulations

A. Except where the text of these Regulations provides otherwise, the size and dimension of lots and yards, lot coverage, and density for all zoning districts, except the Flood Hazard Overlay District as defined in Section 3.3(G) and Article 11 of these Regulations, shall be as shown in Table A.

B. In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of public health, safety and welfare.

C. Except where the Regulations specifically provide to the contrary, the Regulations are not intended to repeal, annul or in any way impair any regulations or permits previously adopted. Existing uses and structures are grandfathered unless a person or parcel of land is already in violation of a permit or prior regulation.

D. Where the Regulations impose greater restriction upon the use of a structure or land than required by any other statute, ordinance, rule, regulation, permit, easement or agreement, the provisions of the Regulations shall control.

4.2 Frontage or Access Required

A. Lots with No Road Frontage. No land development shall be permitted on lots which do not have frontage on a public or private road, unless an access way to such a road or waters is provided by a permanent easement or right-of-way at least twenty-five feet (25 ft.) in width. Any such lots shall require approval of the DRB in conjunction with a PUD approval under the provisions of Section 7.4(B)(5).

B. The minimum lot frontage requirements in Table A apply to all property lines bordering public or private roadways but not to driveway easements.

4.3 Required Yards, Setbacks and Lot Coverage

A. Projections into Required Yards. Unless allowed under this provisions of this section, no structure shall project into any minimum required front, side, or rear yard as set forth in Table A of these Regulations.

1. Accessory structures shall comply with the dimensional standards and setbacks for the applicable zoning district in Table A.

2. Incidental structures as defined in Section 6.2(C) may be sited in any required yard provided the total lot coverage does not exceed the applicable limits in Table A.
3. Wheelchair ramps, chair lifts and similar structures providing access to an occupied principal or accessory structure may project into any required yard.
4. Fences may be installed within any required yard at a point up to, but not upon, a property line.

B. A corner lot shall be deemed to have two front yards and two side yards and no rear yard, and shall meet the required front yard requirement along each street.

C. No wall, fence, shrubbery or other object which obstructs or interferes with traffic visibility shall be erected, planted or maintained on or near a road or street curve or on any corner lot within the triangular area formed by the lot lines along the roads or streets and a line connecting them at points thirty feet (30 ft.) from the intersection.

D. Temporary structures shall meet all setback requirements for the applicable zoning district, unless a waiver is granted pursuant to Section 4.4.

E. The total ground floor area of all structures, parking areas, access drives and walkways shall not exceed the maximum percentage of lot area as set forth in Table A.

4.4 Waiver of Dimensional Standards

A. In accordance with 24 V.S.A. § 4414(8), the DRB may grant a waiver of the dimensional standards of these Regulations. Application and review shall follow the procedures for Site Plan Review in Section 6.5 and Section 6.6. A waiver may be approved if it is determined that the grant of the requested waiver conforms with the criteria in this section (waiver for the height of structures shall be issued in accordance with Section 4.5 of these Regulations):

1. The waiver is the minimum reduction in the dimensional requirement that will reasonably accomplish the purpose of the request.
2. The grant of the waiver will not result in an undue adverse effect on any of the following:
   a. The character of the surrounding neighborhood, as the character is expressed in the purpose statement for the applicable zoning district;
   b. Roadway and traffic safety and circulation;
   c. The protection of public health and safety, or the provisions of public utility services;
   d. The function, quality or condition of existing water supplies, wastewater treatment or stormwater conveyance and treatment systems;
3. The waiver will not result in a use or structure that is in conflict with the goals of the Duxbury Town Plan, or with the purposes of the zoning district within which it is located;
4. The need for a waiver was not created by an intentional action of the applicant, and is necessitated by the absence of any practical option or alternative.

B. Application and Review.

1. Application for waiver shall be made on a form specified by the Town.
2. In granting a decision in favor of the applicant, the DRB may attach conditions reasonably related and proportional to the potential impact of the approved activity including, but not limited to, mitigation through design modifications, landscaping and screening.
3. Any waiver granted under this section shall apply only to the application under which it has been granted. A waiver on one parcel or for one application shall not be construed as a general guideline or standard for other applications or parcels.
4. Waiver approvals shall expire by limitation if the authorized work is not completed within twenty-four (24) months after the date of approval. The DRB may approve extensions of the expiration date where application is made for an extension prior to the date of expiration of the original waiver approval.

4.5 Height of Structures

A. Structures in all zoning districts shall comply with the height standards in this section, excluding exemptions under 4.5(D). Height shall be measured vertically from the highest point on top of the structure to the average (of the highest and lowest) preconstruction grade at the foundation or base.

B. For the purpose of regulating height under this section, pre-construction grade shall be defined as the grade existing on the property on the date of an application for any development approval under these Regulations. Where site plan, subdivision, PUD or other approval has been granted by the DRB, the pre-construction grade shall be the grade shown on the approved plan.

C. Maximum Height. No structure shall exceed thirty-five feet (35 ft.) in height, except as provided in this section.

1. Height in excess of thirty-five feet (35 ft.) may be approved by the DRB. Application and review shall follow the procedures for Site Plan Review in Section 6.5. The DRB may grant such an approval upon written finding that:
   a. The additional height applied for is customary to the proposed use, including features such as, but not limited to, steeples, flagpoles, spires or cupolas; or
   b. The additional height applied for is necessary to the operation or function of the proposed use, such as, but not limited to, industrial silos, elevator shafts, water towers, or chimneys.
2. In granting additional height approval beyond thirty-five feet (35 ft.) for any structure, accessory building or appurtenance, the DRB shall be guided by, and base its findings on, the following criteria:
   a. The grant of the additional height furthers a goal of the adopted Duxbury Town Plan;
   b. The grant of the height waiver is consistent with the safe and efficient provision of firefighting and public safety services;
   c. The design, proportions and materials of the proposed structure, and the siting of the structure and/or portion with the additional height, are visually consistent

with the planned character of the neighborhood in which the structure will be located.

3. The maximum permitted height for chimneys shall be forty feet (40 ft.), in all zoning districts where residential dwellings are allowed as permitted or conditional uses. A Waiver to this height restriction may be given where the chimney needs to conform to codes and standards set by the National Fire Protection Association (NFPA) specifically standards 31, 54, 58, or 211 or as required by original equipment manufacturers in their appliance installation and operating instructions for equipment attached to such chimneys.
4. In no case shall the maximum height of any structure intended for residential occupancy exceed fifty feet (50 ft.).

D. The height limitations in this section shall not apply to the following uses or structures:

1. Farm structures, as specified by the most current Vermont Agency of Agriculture Required Agricultural Practices (RAPs).
2. Rooftop solar collectors less than ten feet (10 ft.) in height.
3. Telecommunication facilities and wind turbines, which shall be subject to the provisions of Article 9.
4. Net metered power generation systems subject to regulation and approval by the Vermont Public Utility Commission.

4.6 Pre-Existing Small Lots

In accordance with 24 V.S.A. § 4412(2), any lot in individual and separate and non-affiliated ownership from surrounding properties in existence on the effective date of these Regulations may be developed for the purposes permitted in the district in which it is located even though not conforming with minimum lot size requirements, if such lot is not less than one-eighth acre in area with a minimum width or depth dimension of forty (40) feet and if a valid Potable Water Supply and Wastewater Disposal (WW) permit for the proposed development has been issued by the Vermont Department of Environmental Conservation. Surveys may be required by the Administrative Officer or DRB only where required to make a determination under this section. In the event that a pre-existing small lot comes under common ownership with one or more contiguous lots, the pre-existing small lot shall be deemed merged with the contiguous lot(s).

ARTICLE 5 USE REGULATIONS AND STANDARDS

5.1 Table of Uses

A. The permitted, conditional and accessory uses allowed in each zoning district within the Town of Duxbury, subject to other limitations and provisions in these Regulations are contained in Table B.

B. Any use of a parcel other than a permitted, conditional or accessory use as defined in these Regulations shall be deemed to be prohibited.

C. The Administrative Officer shall have the authority to determine the applicability of a definition in these Regulations to a particular use. Any such a determination may be appealed to the DRB under Section 10.5 of these Regulations.

D. Pursuant to 24 V.S.A. 4413(a), the following uses may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended functional use:

1. State- or community-owned and operated institutions and facilities.
2. Public and private schools and other educational institutions certified by the state Department of Education.
3. Churches and other places of worship, convents, and parish houses.
4. Public and private hospitals.
5. Regional solid waste management facilities certified under 10 V.S.A. Chapter 159.
6. Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. § 6606(a).

E. Allowable Uses are those uses that do not require a Zoning Permit or other approval.

F. Permitted Uses are those uses allowed in a zoning district provided a project or use complies with all applicable requirements of these Regulations.

G. Conditional uses are those uses that may be allowed in a zoning district upon review and approval by the DRB, in accordance with the standards and procedures set forth in Section 6.5 of these Regulations.

H. Accessory uses are those uses whose extent, area, or purpose is incidental and subordinate to the principal use of the building or land. Unless approved in conjunction with PUD approval as set forth in Section 7.2 of these Regulations, accessory uses shall be located on the same lot as the associated principal use. An accessory use may not be accessory to another accessory use.

5.2 Number of Uses or Structures per Lot

A. Multiple Uses in a Principal Structure. Multiple uses in one principal structure, including residential and non-residential uses, are allowed provided the applicable dimensional standards in Table A and any other applicable standards in these Regulations are met.

B. If any use proposed to be located in a principal structure on a single lot is a conditional use in the underlying zoning district, conditional use approval shall be required.

C. Construction or substantial improvement of a single structure containing multiple uses with a total floor area in excess of five-thousand square feet (5,000 sf.), or any proposal for multiple principal structures or uses on a single lot, may be permitted under the procedures for Planned Unit Development approval in Section 7.2.

5.3 Day Care Facilities

In accordance with § 4412(5) of the Act, day care facilities are permitted in all districts except the Ecological Reserve Lands District and Timber Management and Wildlife District, subject to the following:

1. A day care operating out of a new or existing single- or two-family dwelling and serving not more than six (6) children full time and four (4) children part time shall be considered a benign home occupation under Section 5.6(C) and shall not require conditional use review or site plan review, regardless of other provisions of these Regulations.
2. A day care operating out of a new or existing single- or two-family dwelling and serving more than six (6) children full time and four (4) children part time shall be considered a Home Occupation under Section 5.6 of these Regulations, and shall require Site Plan Review pursuant to Section 6.5 and 6.6.
3. Day care facilities operated in a structure other than an existing single- or two-family dwelling shall be allowed in specific zoning districts pursuant to Table B and shall require Site Plan Review under Section 6.5 and 6.6.

5.4 Residential Care Facilities

In accordance with 24 V.S.A. § 4412(1)(g), a residential care facility to be operated under state licensing or registration, serving not more than eight (8) persons who have a handicap or disability as defined in 9 V.S.A. § 4501 shall be considered by right to constitute a permitted single-family residential use of property, except that no home shall be so considered if located within one-thousand linear feet (1,000 ft.) of another existing or permitted such home. All other Residential Care Facilities shall be permitted only as prescribed in Table B of these Regulations.

5.5 Accessory Dwelling Units

A. Accessory dwelling units permitted. Pursuant to 24 V.S.A. § 4412(1)(E), one (1) accessory dwelling unit as defined in these Regulations is allowed as a permitted use in all zoning districts in a permitted single-family dwelling unit, or a permitted accessory structure thereto. A Zoning Permit shall be required for an accessory dwelling unit.

B. Standards for approval. Accessory dwelling units shall conform to the following standards:

1. An applicant shall provide a copy of the applicable Vermont Wastewater System and Potable Water Supply Permit demonstrating sufficient permitted wastewater treatment capacity for the principal and accessory units.
2. The habitable floor space of an accessory dwelling unit located within the single-family dwelling unit shall not exceed thirty percent (30%) of the total habitable floor area of the single-family dwelling unit.

3. An applicant shall demonstrate that the property can accommodate a total of four (4) off-street parking spaces in a driveway, garage, or side or rear yard, and that the applicable lot coverage limitations in Table A will be met.
4. If occupancy of the accessory dwelling unit is to be restricted in the deed of the single-family home to use by a disabled person, a total of two (2) off-street parking spaces shall be required.

5.6 Home Occupations

A. Home Occupations Permitted. Home occupations are permitted as an accessory use in all zoning districts. Home occupations are hereby classified for purposes of these Regulations as Home Occupations, which shall require Site Plan Review by the DRB, and Benign Home Occupations, which shall not require a permit. Day Care Facilities and Residential Care Facilities shall be governed under Section 5.3 and Section 5.4, respectively.

B. Standards for Home Occupations. For all Home Occupations, including Benign Home Occupations, the following standards shall apply:

1. The home occupation shall be carried out entirely within the principal and/or accessory structure.
2. The home occupation shall occupy no more than twenty-five percent (25%) of the combined areas of the principal dwelling unit and the accessory structure(s) used in the home occupation.
3. The home occupation shall be undertaken by the principal occupant of the dwelling unit in which the occupation is located, and a maximum of two (2) additional persons. In no case may the property owner or principal occupant of the dwelling unit rent out the area used for the home occupation.
4. The home occupation shall not produce excessive noise, smoke, odor, or other such nuisance; or generate hazardous waste as defined by these Regulations and applicable state and federal law.
5. No home occupation may include on-premise retail sales.
6. Home occupations shall not entail any changes to the grading or landscaping of the property, or any exterior modifications to structures, that are inconsistent with the residential character and visual quality of the surrounding neighborhood and the zoning district in which the property is located.
7. Home occupations shall be limited to an average of ten (10) hours of active operation per day during which time deliveries, visitors or employees may come to or leave the premises.
8. Any home occupation anticipated to generate regular delivery traffic exceeding the volume that would normally be expected in the neighborhood, or for which dedicated off street parking is requested by the applicant, shall require Site Plan Review by the DRB under Sections 6.5 and 6.6.

C. Benign Home Occupations. A benign Home Occupation shall not require land use approval from the Town of Duxbury. A Benign Home Occupation is defined as a home occupation which meets each and all of the following criteria. In the event that any of these criteria are not met, the homeowner must obtain a permit. A Benign Home Occupation:

1. Is limited to activities undertaken solely by persons residing in the same dwelling unit where the home occupation takes place;
2. Involves limited or no client or customer interaction at the dwelling unit;
3. Does not produce noise, smoke, odor, or other such nuisance;
4. Does not regularly involve the use of off street parking associated with the dwelling unit for delivery, client or customer vehicles;
5. Does not produce additional traffic or trip ends beyond usual and customary vehicle trips associated with a single-family residential use; and
6. Does not entail the use of an exterior sign or signs, or any other modification of the exterior of the structure.

D. Review procedure for Home Occupations.

1. The Administrative Officer shall determine, pursuant to this section, whether Site Plan Review under Sections 6.5 and 6.6. is required for a Home Occupation other than Benign Home Occupations as defined in 5.6(C) above. Such decision shall be appealable to the DRB under Section 10.5.
2. The DRB shall review applications for Home Occupations against the standards in 5.6(B) above.
3. In granting approval, the DRB may impose conditions reasonably and proportionally related to the impact of a home occupation, including but not limited to requirements for dedicated off-street parking, landscaping and screening, or limitations on the hours or intensity of a use where necessary to prevent impacts related to traffic, noise, visual impacts of parking, outdoor storage, and other such conditions as are necessary to ensure the proposed use meets the standards of this section.

5.7 Extraction of Sand and Gravel

A. General Provisions. No removal of sand, gravel or soil for sale, except where incidental to the construction of a building on the same premises, shall be permitted unless approved after public hearing by the DRB, in accordance with the procedures and standards set forth for Conditional Uses in Sections 6.5 and 6.7, and the standards in 5.7(B) and (C) below.

B. Requirements for Approval. An applicant shall demonstrate the following to the DRB:

1. A performance bond or other binding financial instrument sufficient to secure the proper closure and redevelopment of the site when extraction activities cease;
2. A closure plan which ensures that site conditions will be safe, attractive, and consistent with surrounding properties, after extraction activities cease;
3. An operations plan including the following provisions:
   a. A prohibition against the creation of steep slopes, spoil banks and pits;
   b. Erosion control mechanisms;
   c. Provisions to prevent discharges to surface waters or drainage systems;

d. The prevention of the migration of materials from the site to adjoining properties or rights-of-way;
e. Provisions for regrading and seeding of slopes and other disturbed areas;
f. Setbacks of two hundred feet (200 ft.) from any property line or public right of way for any excavation, blasting or stockpiling of materials;
g. Setbacks of three hundred feet (300 ft.) from any property line or public right of way for any power activated sorting machinery, and;
h. A description of the dust elimination devices on or attached to the equipment.

C. Considerations and Conditions

1. In making a determination on an application under this section, the DRB shall consider the following standards:
   a. The purpose of the zoning district(s) in which the proposed activity is located;
   b. The goals and objectives of the Town Plan, as it relates to the zoning district which is the subject of the application;
   c. The capacity of the land to support the proposed use;
   d. The level and type of traffic expected to be generated by the proposed project, and the capacity of on the roads and highways serving the project site, and;
   e. The anticipated impact of the proposed project on mapped natural resources on, adjacent to, and downstream of the project site.
2. No extension of an existing non-conforming operation shall be approved.
3. The DRB may require such conditions as it deems are necessary to ensure that the standards and provisions of this section are met.

ARTICLE 6 DEVELOPMENT REVIEW

6.1 Permits Required

A person shall not construct, develop, erect, extend, install, modify, use, or occupy any land, building, structure or part thereof, in any manner which is not in conformity with the Regulations.

6.2 Zoning Permits

A. Activities Requiring a Zoning Permit. A zoning permit shall be required prior to commencement of any land development activity as defined in these Regulations, including but not limited to the following activities:

1. The construction or reconstruction of any building or structure, or development in the Special Flood Hazard Area, unless otherwise exempted by these Regulations or Vermont Statute;
2. The installation of a mobile home or manufactured home, whether for residential or storage purposes;
3. The construction or reconstruction of accessory structures, including but not limited to garages, utility sheds, and barns, except as provided under 6.2(C);
4. The enlargement, extension or relocation of any existing structure, including the construction or enlargement of decks and porches;

5. The alteration of any existing permitted building or structure if such action will alter the exterior dimensions including but not limited to height or floor area;
6. The subdivision of land;
7. The change of use of any existing structure or parcel of land, other than for Benign Home Occupations per Section 5.6(C) of these Regulations;
8. Establishment or modification of any non-residential land use, including gravel or soil extraction;
9. The installation of a sign, except where specifically exempted pursuant to Section 8.2(C)(2);
10. All development within the Special Flood Hazard Area, pursuant to the provisions of Article 11 of these Regulations;
11. The installation of a wind turbine, telecommunications facility or net metered power system unless specifically exempted in these Regulations or pre-empted by Vermont Statute;
12. Use of a Recreational Vehicle as a temporary residence outside of a permitted Recreational Vehicle/Travel Trailer Park for a period exceeding two (2) months and up to six (6) months in one (1) calendar year (See Section 8.6(A)).

B. Activities Not Requiring a Zoning Permit

1. The installation of temporary construction trailers in use at a properly permitted and operational construction site.
2. Modification to the interior or exterior of an existing, permitted building or structure where there is no change in use, other than for a benign home occupation.
3. Interior or exterior alterations or repairs to a structure that do not result in expansion, dimensional or height modification, or a change in use, or affect the approved wastewater capacity.
4. Residential entry stairs (excluding decks and porches) and walkways conforming with all applicable setbacks.
5. Access ramps or structures for the disabled, which shall be exempt from setback regulations, notice of which shall be filed with the Administrative Officer.
6. Land disturbance for gardens.
7. Installation of rooftop solar structures not exceeding the applicable height limits in these Regulations.
8. Fences less than six (6) feet in height or walls less than four (4) feet in height, which shall not extend into or obstruct any public right of way, or interfere with corner visibilities or sight distances for vehicular traffic.
9. Decorative or incidental structures such as but not limited to garden trellises, sundials, bird feeders, raised garden beds, rain barrels not exceeding a total capacity of one hundred (100) gallons.
10. Silvicultural (forestry) activities conducted in accordance with the Vermont Department of Forests, Parks and Recreation Acceptable Management Practices (AMPs).
11. Agricultural activities conducted in accordance with the most current Vermont Agency of Agriculture Required Agricultural Practices (RAPs). Prior to the construction of farm structures in the Special Flood Hazard Area, the farmer must

notify the Administrative Officer in writing of the proposed activity. The notice must contain a sketch of the proposed structure, including setbacks.

12. Benign home occupations as defined in Section 5.6(C).
13. The construction or installation of a temporary structure which meets all applicable setback requirements for the zoning district in which it is constructed, which may remain in use for up to six (6) months, after which time a Zoning Permit or other applicable approval shall be required.
14. Passive recreation as defined in Section 2.2.
15. Garage sales, yard sales, auctions or similar activities that do not exceed three (3) consecutive days nor more than twelve (12) total days in any calendar year.
16. Installation of building mounted receivers or free standing satellite dishes with a diameter less than thirty-six inches (36 in.).
17. Use of a Recreational Vehicle as a temporary residence outside of a permitted Recreational Vehicle/Travel Trailer Park for a period of up to two (2) months in one (1) calendar year (See Section 8.6(A)).
18. The construction or reconstruction of an on-site wastewater system pursuant to the issuance or amendment of a Vermont Potable Water Supply and Wastewater System (WW) Permit.

C. Exemption for Incidental Accessory Structures. The construction or erection of up to four (4) incidental structures accessory to a single-family or two-family dwelling, such as, but not limited to a dog house, child's play house, tree house, chicken coop or other similar structure, shall not require a Zoning Permit, provided the following provisions are met:

1. The dimensions of each incidental accessory structure other than tree houses shall not exceed one hundred square feet (100 sf.) in area and ten feet (10 ft.) in height.
2. For tree houses, the total floor area that is roughly horizontal to the ground shall not exceed one hundred square feet (100 sf.).
3. The total area of all incidental accessory structures on a lot shall not exceed four hundred square feet (400 sf.).
4. All incidental accessory structures shall comply with the setback requirements for the zoning district in which the property is located (Table A), unless a waiver is granted pursuant to Section 4.4 of these Regulations.
5. The total square footage on the ground surface of all principal, accessory and incidental accessory structures shall be counted towards the calculation of the maximum building coverage allowed on a lot, per Table A.
6. This exemption shall not be interpreted to allow for cumulative addition to the allowable number and area of structures over a period of time, in order to avoid permit requirements. In the event the Administrative Officer determines that a property owner has attempted to circumvent these Regulations, the Administrative Officer may require an application be submitted for a Zoning Permit or other applicable form of approval in accordance with Section 6.2(D) of these Regulations.

D. Application for a Zoning Permit

1. An application for a zoning permit shall be filed with the Administrative Officer on a form provided by the Town. Required application fees, as set by the Select Board,

also shall be submitted with each application. The following information, as applicable, shall be submitted on a site plan, drawn and dimensioned:

a. Dimensions of the lot;
b. Location, footprint and height of existing and proposed structures or additions;
c. Location of existing and proposed easements and rights-of-way;
d. Location of required and proposed setbacks to property boundaries (including public rights-of-way), surface waters, and wetlands;
e. Location of existing and proposed water and wastewater systems, and;
f. Other such information as required by the Administrative Officer to determine conformity with these regulations.

2. Duration and Extension. A zoning permit shall expire if the work described in the permit has not commenced within two (2) years of the date of issuance. The Administrative Officer may grant one (1) six (6) month extension provided there is no change to the project and a plan for completion of the project is submitted with an application for extension.
3. Action by the Administrative Officer
   a. Within thirty (30) days of receipt of a complete application, including all application materials and fees, the Administrative Officer shall act to issue or deny a Zoning Permit in writing or shall refer the application to the DRB for consideration. If the Administrative Officer fails to act within the thirty (30) day period, a permit shall be deemed issued on the thirty-first (31st) day.
   b. No Zoning Permit shall be issued by the Administrative Officer for any use or structure that requires the approval of the DRB until such approval has been obtained.
   c. No Zoning Permit for a structure requiring a new or expanded septic system or water supply shall be considered in effect until a wastewater and potable water supply permit is issued by the State, under 10 V.S.A. Chapter 64, for the permitted activity.
   d. Any Zoning Permit issued under this section shall include a statement of the time within which appeals may be taken under Section 10.5, and shall require posting of a notice of permit, on a form prescribed by the municipality, within view of the nearest public Right-Of-Way until the time for appeal has expired.
4. Required Action Following Issuance of a Zoning Permit
   a. The Administrative Officer, within three (3) days of the date of issue, shall deliver a copy of the zoning permit to the Listers; and shall post a copy of the permit in the municipal offices for a period of fifteen (15) days from the date of issue.
   b. The Administrative Officer, within thirty (30) days of the date of issue, shall deliver a copy of the zoning permit to the Town Clerk for recording.
5. Review Following Proposed Amendment to these Regulations. If public notice has been issued by the Select Board for its first public hearing on a proposed amendment to these regulations, for a period of one hundred fifty (150) days following that notice the Administrative Officer shall review any new application filed for compliance with the proposed amendment and applicable portions of these Regulations. If the new regulation or amendment has not been adopted by the conclusion of the one hundred fifty (150) day period, or if the proposed bylaw or amendment is rejected, the permit shall be reviewed under all applicable provisions. (24 V.S.A. § 4449(d))

6.3 Certificate of Occupancy

A. Certificate of Occupancy Required. No use or occupancy of any land or structure requiring a zoning permit, and no new dwelling unit or the addition of habitable space to a structure shall be occupied or used in whole or in part for any purpose until a Certificate of Occupancy is issued by the Administrative Officer.

B. Temporary Certificate of Occupancy. Upon request of the holder of the applicable permit, the Administrative Officer may issue a temporary Certificate of Occupancy for a part of a building or use for a period of up to three (3) years. Such approval may be extended for one (1) additional year upon application to the Administrative Officer and submittal of a plan for completion of the project.

C. Application. An application for a Certificate of Occupancy shall be filed with the Administrative Officer upon completion of the project on a form provided by the Town. Required application fees, as set by the Select Board, also shall be submitted with each application.

D. Within fifteen (15) days of receipt of a complete application, including all application materials and fees, the Administrative Officer shall act to issue or deny a Certificate of Occupancy in writing. If the Administrative Officer fails to act within the fifteen (15) day period, a permit shall be deemed issued on the sixteenth (16th) day. A Certificate of Occupancy shall not be issued until the Administrative Officer determines that the use of the structure or land conforms with all terms and conditions of all permits and approvals.

E. Energy Certification. In accordance with Act 89, provision of a certificate as required by 21 V.S.A. § 266 (residential building energy standards) or § 268 (commercial building energy standards) shall be a condition precedent to the issuance of a Certificate of Occupancy.

F. In the Special Flood Hazard Area, an Elevation Certificate with the as-built elevation (consistent with the datum of the elevation on the current Flood Insurance Rate Maps) of the lowest floor, including basement, of all new or substantially improved buildings (not including accessory buildings) shall be a condition precedent to the issuance of a Certificate of Occupancy.

G. A Certificate of Occupancy may be revoked or canceled by the Administrative Officer in the event that an owner or occupant is in violation of these Regulations.

H. Additional Requirements. Requirements for notification of appeal periods, posting, recording and filing of a Certificate of Occupancy shall be the same as for a Zoning Permit as specified in Section 6.2(D) above.

I. Certification for Manufactured Housing Installations. An applicant for a Certificate of Occupancy for a mobile home or manufactured home shall provide the Administrative Officer with an inspection report verifying that the home was installed by an installer

licensed by the Department of Housing and Urban Development, and properly inspected in accordance with Department of Housing and Urban Development regulations.

6.4 Boundary Adjustment

A. Applicability. Any boundary adjustment must satisfy the requirements of this section. Boundary adjustments shall require review and approval by the Administrative Officer and shall be submitted for filing with the Town Clerk. If the total acreage transferred as a result of a boundary adjustment exceeds the minimum lot size in the zoning district in which the property is located, the boundary adjustment shall be treated as a subdivision. In the event the boundary adjustment involves more than one zoning district, the smallest applicable minimum lot size shall be used to determine jurisdiction.

B. All boundary adjustments shall meet all of the following standards, or else shall require subdivision review under Article 7.

1. No new lots shall be created;
2. No existing lot or structure may be made non-conforming;
3. No boundary adjustment may increase the degree of non-conformity of any existing non-conforming lot or structure;
4. No roads, rights-of-way, or public lands or facilities shall be affected or modified by the boundary adjustment.

C. Application. An application for a boundary adjustment shall be filed with the Administrative Officer and shall include an application for a Zoning Permit, a wastewater and potable water supply permit (or exemption) by the Vermont Agency of Natural Resources, and a survey with the following information:

1. Date, scale, and north arrow;
2. Name, license number and seal of the registered land surveyor preparing the plan(s);
3. Location and dimensions of all existing structures;
4. Bearings and distances of boundary lines of each lot, all easements, and monumentation of all lot corners;
5. The following language: "Approval of this boundary adjustment does not constitute creation of a separate parcel or lot of land. This approval adjusts the physical location of the common boundary of the adjoining parcels or lots. Any future subdivision of these parcels or lots must be approved by the DRB. This lot line adjustment has been approved pursuant to Section 6.4 of the Town of Duxbury Land Development Regulations."

D. Action by Administrative Officer. Within thirty (30) days of receipt of a complete application, including all application materials and fees as set by the Select Board, the Administrative Officer shall act to issue or deny the boundary adjustment in writing or refer the application to the DRB for consideration as a subdivision. If the Administrative Officer fails to act within the thirty (30) day period the boundary adjustment shall be deemed issued on the thirty first (31st) day.

E. Recording of Mylar. Once approved or issued, the applicant shall submit a copy of the mylar, bearing the Administrative Officer's or DRB Chair's endorsement, to the Town Clerk. The applicant shall pay any fees required to file the mylar. Boundary adjustment approval shall expire if the mylar is not filed with the Town clerk within one hundred eighty (180) days of approval.

6.5 Development Review Board (DRB) Approvals

A. Activities Requiring Development Review Board Approval. No Zoning Permit may be issued by the Administrative Officer for the following activities or projects, without prior approval by the Development Review Board (DRB). All applications except subdivision and PUD approvals shall follow the procedures set forth in Section 6.5(B).

1. Applications requiring review under the procedures and standards in Article 7 (Subdivision and Planned Unit Development) (24 V.S.A. § 4417 and § 4418):
    a. Subdivisions, other than Boundary Adjustments as set forth in Section 6.4.
    b. Planned Unit Developments (PUDs).
    c. The creation of, or construction of structures on, any lots without frontage on or access to public waters or a private or public roadway.
    d. Any land development involving multiple principal uses or principal structures on a lot.
2. Applications requiring review under the standards for Site Plan Review, Section 6.6 (24 V.S.A. § 4416):
    a. Any land development or land use requiring Site Plan Review pursuant to these Regulations.
    b. Waivers of dimensional standards as set forth in Section 4.4 and height of structures as set forth in Section 4.5.
    c. Wind Turbines and Wireless Telecommunications Facilities in accordance with Article 9.
    d. All other activities, land development and land uses referred for review by the Administrative Officer pursuant to these Regulations.
    e. Any land development upon existing non-conforming lots.
    f. Expansion of non-conforming uses or structures, as set forth in Section 6.8 of these Regulations.
3. Conditional Uses, including those Home Occupations and other uses requiring Conditional Use Review per Table B shall be reviewed under the standards in Section 6.7, unless reviewed as part of a Planned Unit Development application under Section 7.2 (24 V.S.A. § 4414(3)).
4. Variances shall be reviewed under the standards set forth in Section 6.9 of these Regulations (24 V.S.A. § 4469).

B. Development Review Board Procedures

1. Concurrent Review. Where an application is subject to two (2) or more standards or types of review by the DRB, every effort shall be made to conduct reviews concurrently and to issue unified and consistent findings. Such integration of reviews may require, upon mutual and written consent of the applicant and DRB, reasonable modification of the time schedules otherwise stipulated in these Regulations.

2. Sketch Plan Review Optional.
   a. Any applicant for approval by the DRB may request the Administrative Officer schedule a Sketch Plan Review with the DRB, which is an informal discussion of a proposed land development activity at a properly warned public meeting of the DRB.
   b. Sketch plan review is required only for applicants for subdivision and PUD approval per Section 7.3(A)(2).
   c. Any applicant undertaking Sketch Plan Review shall submit at a minimum a conceptual plan identifying the involved parcel or parcels of land and a general concept for land use. Any such plan shall be submitted to the Administrative Officer at least fifteen (15) days before the day of the DRB meeting.
   d. Except as provided in Section 7.3(A)(3), no action shall be taken or decision or findings made by the DRB in a Sketch Plan Review, and no representation by the DRB or the Applicant shall be binding on either party in a subsequent application.
3. Site Visits. To verify the location of proposed improvements and to evaluate conformity of the application with the standards of these Regulations and the Duxbury Town Plan, the DRB may make a site visit and may, at its discretion, require the applicant's attendance at the site visit.
4. Independent Technical Review. Pursuant to 24 V.S.A. § 4440(d), the DRB may require an applicant to pay for the reasonable costs of an independent technical review of an application or related legal documents. Such determination shall be made at the first public hearing held regarding the application. Where Independent Technical Review is deemed appropriate:
   a. The DRB shall prepare a detailed scope for any technical review. The scope shall be limited and relevant to the specific review criteria in these Regulations upon which the Board is required to base its decision on the application. The scope shall require that the review be completed in a timely manner as specified by the Board.
   b. The DRB, in consultation with the Select Board, shall retain a qualified and (where applicable) licensed individual or firm qualified in the pertinent field(s) to conduct the technical review.
   c. The cost of the review shall be paid for by the applicant, in accordance with procedures established by the Select Board.

C. Application Procedures

1. The procedures of this section shall apply to all applications reviewed by the DRB, except where superseded by the requirements for Planned Unit Development and Subdivision applications pursuant to Article 7 of these Regulations.
2. Application to the DRB shall be made on a form specified by the Town for the applicable type of approval. Any application shall include, at a minimum, the following information, in addition to any information required by the specific type of application proposed:
   a. A completed application form signed by all landowners of record, and the applicant(s);
   b. A location map at least eight and one half by eleven inches (8½ in. x 11 in.) indicating the location of the application;

c. Two (2) full size eleven by seventeen inch (11 in. x 17 in.) copies (and electronic files, if available) of the plan containing all information required under the applicable provisions of these Regulations;
d. Any additional letters, supporting documents, or other information required pursuant to these Regulations;
e. An application fee as established by the Select Board.

3. The Administrative Officer shall make a determination when any required items are not pertinent to the application and shall determine when an application is complete.
4. Notice Requirements. In accordance with 24 V.S.A. § 4464(a)(1)(c), the DRB shall require the applicant for DRB review to notify all owners of adjoining property subject to the development, and all persons that hold easements on the applicant's property, without regard to any public right-of-way. The notification shall include a description of the proposed project and shall inform the recipient where additional information may be obtained and that participation in the local proceeding is a prerequisite to any subsequent appeal. The applicant shall provide the DRB with proof of notice, via certified or registered mail, provided to adjoining land owners and easement holders. The applicant shall provide the DRB with the names and addresses of the adjoining land owners, a copy of the notice provided to those landowners, and certification that the notice was forwarded to the landowners.

D. Hearing, Review and Decision

1. Public Hearing
   a. Upon the determination of the Administrative Officer that an application is complete, a public hearing shall be warned in accordance with 24 V.S.A. § 4464. The DRB shall hear proposed applications, and as applicable shall hold a properly warned public hearing, within sixty (60) days of a determination of complete application.
   b. Waiver of Public Hearing for Minor Applications for Site Plan Review.
      i. The DRB may waive the public hearing requirement for an application Site Plan Review if the Board determines that the application involves a minor activity or project, and the public hearing requirement is not otherwise mandated by statute and these regulations.
      ii. Examples of minor projects or activities are those that do not require substantial waivers of provisions of these regulations, do not represent the potential to create nuisance issues or additional traffic, and generally do not involve construction, erection or installation of additional structures other than minor alterations or additions.
      iii. In the event that the DRB determines that the project is minor, the DRB may require the applicant to notify adjoining landowners of the project and may set a public hearing if so requested by interested parties.
      iv. If an application is determined to be minor, the DRB shall render a decision on the application within forty-five (45) days of the final date of the DRB meeting at which the application is reviewed, in accordance with the procedures in this section.
2. Revision of Application. Any revisions to the application shall be submitted to the Administrative Officer at least seven (7) days before the public hearing or meeting of

the DRB, unless such revisions are requested by the Administrative Officer or Road Foreman.

3. Hearing recess. The DRB may recess any application process pending the submission of additional information. Any such recess shall stay the forty-five (45) day review period specified in (4) below. The DRB shall adjourn the hearing promptly after all parties have submitted requested information and all parties present for the hearing have had the opportunity to be heard.
4. Decision. The DRB shall act to approve, approve with conditions, or deny an application within forty-five (45) days of the date that the public hearing is adjourned. The Board shall issue a written decision to include findings, conditions of approval, and provisions for appeal to Environmental Court in accordance with 24 V.S.A. § 4464(b). The decision shall be sent by certified mail to the applicant within the forty-five (45) day period. Copies of the decision shall be mailed to every person or body appearing and having been heard at the hearing. All decisions shall be recorded in the land records of the Town. If the Board fails to act within the forty-five (45) day period, the application shall be deemed approved on the forty-sixth (46th) day, provided the applicant seeks court affirmation of the deemed approval by direct appeal to the Environmental Court.
5. Denial. If the DRB finds that the proposed use does not satisfy the purpose and standards of the specified type of review, and that reasonable conditions cannot be attached to the approval to ensure that they will be met, it shall deny the application.
6. Written Decision. The DRB shall issue its decision in writing and shall include a factual basis and a statement of conclusions. The decision shall be mailed via certified mail to the applicant and/or the appellant in an appeal. Copies of the decision shall be forwarded to all persons appearing and having been heard at the hearing, and shall be filed with the Administrative Officer.

E. Imposition of Conditions. In granting an approval, the DRB may attach such reasonable conditions as it may deem necessary to implement the purpose and standards for a specified type of review and to ensure the proper installation of required improvements. The conditions imposed may include, but shall not be limited to:

1. Requirements that any activities or storage be conducted under cover or fully screened;
2. A requirement for the installation, operation, and maintenance of such devices and/or such methods of operation as may, in the opinion of the Board, be reasonably required to prevent or reduce fumes, gas, dust, smoke, odor, noise, vibration or similar nuisance conditions;
3. A requirement that all work and storage of work related materials associated with a land use be under cover conducted within an enclosed or covered structure;
4. Modification of the parking requirements in Section 8.1 and Table B of these Regulations to ensure safe conditions;
5. An increase in the required setback, or limitation on the height, bulk or density of a structure or structures;
6. Supplemental planting, landscaping, fencing or screening to mitigate visual, erosion and water quality, natural resource protection or noise issues;

7. Changes to the location, screening or specifications of signs, outdoor lighting, service areas or utility structures to ensure compatibility with adjacent land uses and mitigate impacts on views from public rights-of-way or lands.

F. Field Changes and As-Built Plans.

1. During construction of an approved project, the Administrative Officer may authorize or require, at his/her discretion, minor adjustments to an approved plan when such adjustments are necessary in light of technical or engineering considerations, the existence of materiality of which was first discovered during actual construction. Such minor adjustments shall be consistent with the findings and intent of the approved plan.
2. Where unforeseen conditions are encountered which require a material change to an approved plan or where the applicant wishes to modify the approved plan for other reasons, an application for amendment shall be filed with the DRB or Administrative Officer, as applicable.
3. Upon completion of any project pursuant to an approved field change, and prior to issuance of a Certificate of Occupancy, the applicant shall submit to the Administrative Officer an as-built plan showing the location of all site improvements as constructed. If the Administrative Officer determines that variations from the approved plan exist, an application for amendment of the plan shall be filed with the DRB.

G. Bonding Requirements. At the discretion of the DRB or Administrative Officer, where the failure to complete required improvements or to establish landscaping on a site would materially affect a project's conformance with specific conditions of approval, or would represent a potential hazard to public safety, adjacent properties, or the integrity of surface waters and wetlands, the DRB or Administrative Officer may require an applicant to provide a suitable performance bond, escrow account, letter of credit or other comparable financial guarantee for the completion and establishment of required landscaping, site restoration, and improvements. In the case of landscaping elements, the financial guarantee shall be sufficient to guarantee all planting for a period of three (3) years after the issuance of a Certificate of Occupancy.

6.6 Site Plan Review Standards

A. General Review Standards. In reviewing Site Plans under the procedures set forth in Section 6.5, the DRB shall make findings that the Site Plan is consistent with the goals of the Duxbury Town Plan, all standards and requirements for the proposed use as set forth in these Regulations, and the standards in Section 6.6(A) (1) through (10) below, as applicable.

1. The proposed site plan shall be accessible from public roads that are adequate to carry the traffic that can be expected to be generated by the proposed activity.
2. The site plan is consistent with the safe and efficient provision of public services and facilities, including fire and police protection and roadway maintenance.
3. The site plan provides for safe and effective measures to minimize erosion, prevent flooding on downstream or adjacent properties, and protect the quality of surface waters. The use of green infrastructure measures and stormwater management

practices consistent with the Vermont Stormwater Management Manual is encouraged.

4. All roadways, culverts, access points and driveways on the site of the proposed development are adequate to serve the proposed use, and meet the Town's adopted standards.
5. Water and wastewater services are sufficient to serve the proposed use, as evidenced by issuance of a Vermont Wastewater and Potable Water Supply Permit for the proposed use, or evidence of connection to a permitted community system.
6. Where permanent preservation of open space areas is proposed, provisions have been made for reservation and maintenance.
7. Any off-street parking and loading facilities are sufficient to serve the proposed use without involving the construction of excessive areas of impervious surface.
8. Areas for snow storage, trash handling, utilities and outdoor storage are sited, screened and secured in a manner that minimizes visual impacts and prevents pollution and contamination of the site and adjacent properties.
9. Locations for entrances and exits are designed to prevent interference with the safe and efficient movement of traffic on surrounding roads, and will not create an adverse effect upon the general traffic pattern of the surrounding neighborhood.
10. The design, landscaping, control of lighting, and general site development will result in an attractive and harmonious service area compatible with the surrounding neighborhood.

B. Special Provisions for the State Farm District – Cemetery Subdistrict. All site plans reviewed in the State Farm District – Cemetery Subdistrict shall meet the following additional conditions:

1. Surface parking shall be minimized and shall not exceed three (3) spaces per one thousand square feet (1,000 sf.) of building area. Additional parking spaces may be approved by the DRB upon showing of need for a particular proposed land use.
2. Parking areas shall not be located between the buildings and Route 100 and shall be visually screened from view from Route 100.
3. All buildings shall be suitably landscaped.
4. Any building in this subdistrict shall have a gable roof, and building design and elevations shall be subject to approval by the DRB.
5. Insofar as possible, the existing topography of the cemetery segment should not be disturbed.
6. The maximum building height shall not exceed twenty-four feet (24 ft.).
7. Any signs shall conform to the requirements of Section 8.2 and the following special provisions:
    a. No sign shall be erected within a two hundred foot (200 ft.) setback from the center line of Route 100 other than a single sign at the junction of Route 100 and the Cemetery Road.
    b. No setback from the Cemetery Road will be required for any sign.

C. Imposition of Conditions. The DRB may impose appropriate conditions and safeguards with respect to the adequacy of parking, traffic access, and circulation for pedestrians and vehicles; landscaping and screening; the protection of the utilization of renewable energy

resources; exterior lighting; the size, location, and design of signs; and the specific standards and objectives of applicable provisions of these Regulations.

D. Expiration of Approval. Site plan approval shall expire if a zoning permit is not obtained within one hundred eighty (180) calendar days of the approval unless the DRB grants an extension. The DRB may grant an extension of site plan approval for reasonable and substantial cause.

6.7 Conditional Use Review Standards

A. Purpose. Conditional use review is intended to subject specified uses to more careful scrutiny because of the potential for adverse impacts to adjoining properties, the neighborhood, or the community at large.

B. Applicability. Before the Administrative Officer may issue a Zoning Permit, a conditional use requires approval of the DRB subject to the procedures in Section 6.5. Conditional uses are those specified for a given zoning district in Table B. A use designated as a conditional use shall not require separate site plan review. Site plan review standards, submission requirements and approval conditions in Section 6.6, and any other standards applicable to the use pursuant to these Regulations, shall become part of the conditional use review standards.

C. Standards. In granting approval for a conditional use, in accordance with the procedures set forth in Section 6.5, the DRB shall determine the area likely to be affected, and that the use shall not result in an undue adverse effect on any of the following general standards, as set forth in § 4414(3)(A) of the Act:

1. The capacity of existing or planned community facilities. The DRB shall determine that facilities (e.g., water, sewer, schools, fire protection, roads) are reasonably available to serve the use or are planned to serve the proposed use at its anticipated time of occupancy.
2. The character of the area affected as defined by the purpose of the zoning district in which the use is located, and by specifically stated policies and standards of the Duxbury Town Plan. At a minimum, the DRB shall determine that:
    a. nuisance or hazard will not be created to the detriment of the health, safety, or welfare of the occupants of the proposed use or residents of the Town of Duxbury;
    b. the proposed use, including any building associated with the use, will be in general harmony with the character of the surrounding neighborhood and will not adversely impact abutting residences or other property; and
    c. the proposed use, including any building associated with the use, will be compatible with the stated purpose of the zoning district in which the use will be located.
3. Traffic on roads and highways in the vicinity: The DRB shall determine that traffic generated or patterns of access or egress will not cause congestion, hazard, or detriment to the established neighborhood character. In making this determination, the DRB may consider any traffic study submitted or independent technical review conducted as part of the application.

4. Bylaws and ordinances then in effect.
5. Utilization of renewable energy resources.

D. Additional Review Standards. The DRB shall consider and may impose appropriate safeguards, modifications, and conditions relative to the following standards:

1. All applicable site plan review standards and approval conditions in Section 6.6;
2. If consistent with the purpose of the underlying zoning district and appropriate to the site, whether buildings have or can be placed within wooded portions or on the edges of lots in order to conserve open land;
3. Whether screening and siting of buildings has been utilized in a manner that reduces obstruction of scenic vistas from public roads or public lands;
4. Whether curb cuts have been minimized and limited where practicable;
5. Whether off-street parking has been screened or located to minimize visibility;
6. Whether utility lines have been placed underground or located to preserve natural vegetative cover, and reduce obstruction to scenic vistas from public roads or public lands;
7. If the proposed use involves hazardous materials as defined in Section 2.2, protection for public and private water supplies, adjacent properties, surface and ground waters, wetlands or other environmental features, and human health shall be ensured. To facilitate evaluation of the proposed use, the DRB may require an independent analysis, in accordance with Section 6.5(B)(4) of these Regulations.

E. Expiration of Approval. Conditional use approval shall expire if a zoning permit is not obtained within one hundred eighty (180) calendar days of approval unless the DRB grants an extension. The DRB may grant an extension of conditional use approval for reasonable and substantial cause.

6.8 Non-Conformities

A. Nonconforming Uses. The following provisions shall apply to all uses of lands or improvements thereon, lawfully existing on the effective date of these regulations, which do not conform with the use requirements of the districts in which they are located. These provisions also apply to the uses of land or improvements thereon which may be rendered nonconforming by reason of amendment of these Regulations. It is considered desirable and in the best interest of the Town of Duxbury to encourage change of nonconforming uses to a more compatible use within the district. A nonconforming use may be continued subject to the following provisions:

1. Enlargement. A nonconforming use shall not be enlarged beyond the lot as it existed on the effective date of these regulations. The DRB may permit the expansion of the nonconforming use by up to twenty-five percent (25%) of the ground area in use at the onset of nonconformity, or of the floor space or structural capacity of the building then existing and housing said use. Such permission shall be granted only in conformity with the requirements of Table B.
2. Change of use. No nonconforming use shall be changed to another nonconforming use except with the approval of the DRB, which must find that the proposed use is more appropriate and compatible to the zoning district than the existing use. Once

changed to a conforming use, no structure or land shall be permitted to revert to a nonconforming use.

3. Interruption and resumption. No nonconforming use shall be resumed if such use is discontinued for any reason for twelve (12) consecutive months, notwithstanding any intention to resume such use.
4. Objectionable qualities. No change or adjustment in size, intensity of use, or nature of use shall be granted that is deemed to increase the objectionable quality or qualities of the original non-conforming use including but not limited to, traffic, parking, noise, light and glare, hours of operation, unsightly storage or conditions, objectionable odors, neighborhood character, safety, overcrowding and pollution.

B. Nonconforming Structures. Any structure, group of structures, or parts thereof, existing on the effective date of these regulations, that is not in conformity with them because of failure to meet their requirements of height, lot size, yard size, density or off-street parking or loading, but which conforms with all applicable laws, ordinances, or regulations in force prior to such effective date, may remain but shall not be moved, enlarged, altered, reconstructed, or restored except in strict compliance with the following:

1. Enlargement, alteration and moving. Any dimension or measurement may be increased or adjusted up to those dimensions or measurements permitted by these Regulations. Such dimensions or measurements not in conformity with those permitted by these regulations may be adjusted only so as to reduce their difference from those required by these Regulations, except by variance or waiver from the DRB.
2. Reconstruction, restoration. A nonconforming structure that has been damaged or destroyed by fire, explosion, wind or other casualty may be reconstructed or replaced if reconstruction or replacement begins within twenty-four (24) months from the date of damage or destruction and is substantially completed within thirty-six (36) months of that date (exclusive of time delays due to local, state, or federal permitting processes). If such reconstruction is not undertaken within twenty-four (24) months, the structure shall be completely razed and cleaned up within thirty (30) months of the damage. No such replacement shall increase floor area or structural capacity except as authorized under Section 6.8(B)(1). The DRB may extend the above time periods in cases of hardship or impracticability.

6.9 Variances

A. The DRB shall hear and decide requests for variances as required by 24 V.S.A. § 4469. In granting a variance, the DRB may impose conditions it deems necessary and appropriate under the circumstances to implement the purposes of these regulations and the Town Plan currently in effect.

B. Structures Not Primarily a Renewable Energy Resource Structure. In reviewing requests for variances relating to structures that are not primarily a renewable energy resource structure, the DRB may grant a variance and render a decision in favor of the appellant only if all of the following facts are found, and the findings are specified in its written decision:

1. There are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that any unnecessary hardship is due to these conditions and not the circumstances or conditions generally created by the provisions of these regulations in the neighborhood or district in which the property is located;
2. Because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of these regulations and that the authorization of a variance is necessary to enable the reasonable use of the property;
3. The unnecessary hardship has not been created by the appellant;
4. The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare; and
5. The variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from these regulations and from the plan.

C. Renewable Energy Resource Structure. In reviewing requests for variances relating to structures that are primarily a renewable energy resource structure, the DRB may grant a variance and render a decision in favor of the appellant only if all of the following facts are found, and the findings are specified in its written decision:

1. It is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource structure in conformity with these regulations;
2. The hardship was not created by the appellant;
3. The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare; and
4. The variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from these regulations and from the plan.

6.10 Water Supply and Wastewater Disposal Permits

A. Permit Required. Water supply and wastewater treatment systems proposed to be built, altered or replaced within the Town of Duxbury shall be subject to applicable regulations and permit requirements of the Vermont Agency of Natural Resources Wastewater System and Potable Water Supply Rules, as most recently amended.

B. Construction of a Dwelling Unit on a Single Lot. No zoning permit for new construction of a single-family or two-family dwelling on a single lot shall be effective unless and until a Wastewater System and Potable Water Supply Permit has been issued to the parcel owner pursuant to 10 V.S.A. Chapter 64.

C. New Construction, Subdivision and Creation of Two or More New Lots. An applicant for an approval other than construction of a single-family or two-family dwelling unit on a

single lot may submit a permit application to the Town for review prior to issuance of a wastewater and potable water supply permit by the Vermont Agency of Natural Resources. In any such case, the Administrative Officer or DRB shall condition the approval to require issuance of an approved wastewater and potable water supply permit prior to the Town approval becoming effective.

6.11 Ratification of Improperly Filed Plats

A. If a plat has been recorded in the Duxbury Land Records without the signed endorsement of the DRB, or was not timely filed or recorded in the Duxbury Land Records and no extension was obtained from the Administrative Officer and the recorded plat can be shown to be identical to the plat that was acted on by the DRB at that time, an interested party may apply to seek the DRB's ratification of the recorded plat.

B. The DRB shall review, at a duly warned public meeting, a copy of the recorded plat and associated documentation and compare such with the records of the original approval. If found to be identical, the Board shall endorse a Notice of Ratification, which shall be recorded in the Duxbury Land Records and contain the following information:

> "WHEREAS, the Duxbury Development Review Board, having granted final plat approval relative to said subdivision and the related plat, and the same having been previously recorded in the Land Records of Duxbury, and wishes by the adoption and recording of this Notice to reaffirm and confirm said approval that the plat as recorded, in Map [XX] Book [XX] at Page [XX], shall be deemed to have been stamped and endorsed by the Development Review Board as required by 24 V.S.A. § 4463, and the lots depicted on said plat have been and shall continue to be subject to the all of the conditions and restrictions contained in the final plat approval which conditions and restrictions shall run with said land and be binding upon the current owners thereof and their respective successors, heirs, and assigns, unless and until modified or removed by the Development Review Board."

C. If the Board finds that the records do not support ratification, the request shall be denied.

6.12 Access Permits

A. An Access Permit shall be obtained for:

1. Any new curb cut or access point onto a Town road,
2. The reconstruction of any portion of a driveway or private road located within three hundred feet (300 ft.) of its intersection with a Town or State highway, including ditching or re-grading, if the reconstruction alters the existing drainage pattern; or
3. Placement or replacement of any culvert within or adjacent to a Town right-of-way.

B. The Access Permit shall be obtained directly from the Road Foreman, and documentation of final approval shall be provided to the Administrative Officer prior to issuance of a zoning permit for construction of the road or driveway.

C. An Access Permit shall be valid for two (2) years from the date of issuance. If construction has not been initiated within the two-year period, a new application shall be required.

D. All private roads, private driveways and rights-of-way proposed to intersect a Town road, and all culverts within or adjacent to the public right-of-way, shall conform with the Town Highway and Bridge Standards as most recently adopted by the Duxbury Select Board.

E. All new access points onto a State highway or within a State right-of-way are subject to approval by the Vermont Agency of Transportation.

ARTICLE 7 SUBDIVISION AND PLANNED UNIT DEVELOPMENT

7.1 Applicability

A. Approval Required. In accordance with 24 V.S.A. § 4417 and § 4418, whenever any subdivision of land or Planned Unit Development is proposed, the subdivider or authorized agent shall apply for and secure approval of the proposed subdivision prior to undertaking:

1. Any construction, lot, building, or road development or clear cutting (excluding agriculture and forestry activities);
2. The issuance of any permit for any land development involving land to be subdivided;
3. Any sale, conveyance or lease of any subdivided portion of a property; and/or
4. The filing of a subdivision plat with the Town Clerk.

B. Minor and Major Subdivisions. For the purposes of these regulations, subdivisions shall be classified as minor or major subdivisions in accordance with the following:

1. Minor Subdivisions shall include the subdivision of land, or the re-subdivision of a previously subdivided parcel, that results in the creation of five (5) or fewer lots, regardless of any change in ownership; and amendments to an approved subdivision plan that will not substantially change the nature of any previous subdivision or conditions of approval.
2. Major subdivisions shall include any subdivision resulting in the creation of six (6) or more lots, or a subdivision creating any number of lots and requiring any new road greater than eight hundred feet (800 ft.) in length; and any planned unit development.

C. Coordination with Planned Unit Development Review. Subdivision applications for Planned Unit Developments (PUDs, which shall include Planned Residential Developments) shall be reviewed as major subdivisions under this Article. Planned Unit Development involving non-residential or multi-family use shall be subject to the criteria for approval of Site Plan Review under Section 6.6.

D. Supplemental Information and Technical Review. In accordance with Section 6.1 of these Regulations, the DRB may require the applicant to submit additional information to determine conformance with the applicable standards, and may require technical review under Section 6.5(B)(4).

E. Disclosure of Subsequent Development Plans. Whenever an applicant submits a proposal for development on a minor portion of a parcel, the DRB may require a general indication of the intended uses of the remaining portion of land. Such an indication should include access, type of use, intensity of use, and phasing.

7.2 Planned Unit Developments (PUDs)

A. Applicability. Planned Unit Development (PUD) provisions may be used, at the request of the applicant, to apply for approval for the subdivision and development of any parcel or parcels to be subdivided or developed in the State Farm, Rural Agricultural I or II, Village or Forest Recreation zoning districts.

B. Application Requirements. Applications for a PUD shall be submitted as an application for major subdivision review on a form established by the Town, and in accordance with all requirements set forth in Section 6.5(C). An application for PUD approval shall incorporate as applicable the required application information for a major subdivision and for site plan review, and shall include a statement describing all of the proposed modifications or changes from the existing land use regulations, and the standards and criteria that the applicant proposes for the development, including standards for the design, dimensions and spacing of buildings and sizes of lots and open spaces, and associated density calculations.

C. General Standards. In addition to the standards set forth in Section 6.6 and Section 7.4, PUDs shall be subject to the following standards:

1. Allowed Uses. A PUD may include a mix of uses, including any permitted or conditional uses allowed within the zoning district(s) in which it is located. PUDs may also include associated accessory structures and uses, and common areas and facilities for use by occupants of the PUD or the general public. All conditional uses proposed in a PUD shall be deemed permitted uses for purposes of review; separate conditional use review and approval shall not be required.
2. Density. The overall density of the project shall not exceed the number of dwelling units or commercial square footage that would be allowed if, in the DRB's judgment, the land were subdivided into lots or constructed as a site plan in accordance with the standards for the district(s) in which the land is situated.
3. Cluster Development. Clustering of the structures may be permitted.
4. Consistency. The PUD shall be consistent with the goals and policies of the Duxbury Town Plan and all applicable subdivision and site plan review standards.
5. Unified Treatment. The PUD shall be an effective and unified treatment of the development possibilities of the project site, and the development plan shall make appropriate provision for preservation of steep slopes, and unique natural and manmade features documented on the site.
6. Lot Coverage. The maximum impervious coverage shall not exceed the coverage limit that would apply to the land in the underlying zoning district(s) if developed as a site plan or conventional subdivision.
7. Setback and Screening. To insure compatibility with the character of the district and the privacy of adjoining properties, and to avoid degradation of the area's scenic

quality, the DRB may require setbacks, visual screening, or a combination of both for structures, parking areas, and other development along the perimeter of the PUD.

D. Special Standards for the State Farm District

1. Development Densities. In addition to all other requirements of this section and the Site Plan Standards in Section 6.6, the following requirements shall apply to Planned Unit Developments in the State Farm District:
   a. Development shall be laid out and designed to protect Crossett Brook. A buffer equal to fifty feet (50 ft.) shall be preserved along both sides of the brook. Within this buffer, no construction shall take place and no vegetation shall be removed without explicit approval by the DRB.
   b. Development shall be consistent with the goals of the Duxbury Town Plan.
   c. It is the intent of these Regulations that land not used for building sites be kept open and usable for agriculture or forestry. To the extent practicable, such land shall not be encumbered by fences, unless the fences are part of an ongoing agricultural operation.
   d. As part of the PUD approval, the DRB may authorize a density bonus of up to twenty-five percent (25%) of the number of lots otherwise allowed in exchange for creating small individual building lots, if so doing will further the purposes of this section and the underlying zoning district.
   e. The PUD design shall explicitly coordinate with the layout of the middle school facility on the adjacent segment.
   f. A main access road may connect to the end of the public road serving the middle school, run along the recreation fields, and extend to Route 100. This road may be designed to include parallel on-street parking. The new road shall not be connected to the school access road until the entire new road, including the connection to Route 100, is constructed in accordance with Town standards.
   g. Off -street parking may not be located in front yards but must be behind the front facade line of the building(s).
   h. Parking requirements, as specified in Table B of these Regulations, may be reduced by the number of on-street spaces immediately fronting the lot on which the building is located, provided those spaces have not been allocated to any other building.
   i. Off-street parking lots may be shared by adjacent buildings in accordance with the standards and procedures in Section 8.1 of these Regulations.
   j. No building may contain more than twenty thousand square feet (20,000 sf.) of enclosed building space except for the adaptive reuse or reconstruction of structures built prior to 1970.
   k. The entire PUD shall contain no more than one hundred thirty thousand square feet (130,000 sf.) of enclosed building space. Up to one hundred ten thousand square feet (110,000 sf.) may be located southwest of the power lines and up to thirty thousand square feet (30,000 sf.) may be located northeast of the power lines.
   l. The DRB may grant a bonus of up to ten thousand square feet (10,000 sf.) for proposals that include reconstruction of the main State Farm barn building. If such a bonus is granted, total development in the PUD may be increased to one

hundred forty thousand square feet (140,000 sf.), total development southwest of the power lines shall not exceed one hundred ten thousand square feet (110,000 sf.), and total development northeast of the power lines shall not exceed forty thousand square feet (40,000 sf.).

m. Development located northeast of the power lines shall be considerably less dense than that around the recreation fields, shall make use of existing structures to the extent practicable, and may be accessed from Route 100. Development in this area may include small scale manufacturing, educational facilities, museums, and agricultural uses.

n. The DRB may approve front yard setbacks and spacing between buildings that is appropriate to the objective of creating a village center around the recreation fields.

2. Site Plan Standards for PUDs in the State Farm District – Barn/Buildings Subdistrict. As authorized in 24 V.S.A. 4416, the following site plan standards are established for development in PUDs in the State Farm District – Barn/Buildings Subdistrict, in addition to any standards contained elsewhere in these Regulations. The intent of these standards is to encourage the creation of a compact village center pattern of development, using the middle school athletic fields as a town green. This is promoted as an alternative to strip development along Route 100.

   a. All development in the Barns/Buildings segment of the State Farm District shall be part of an approved PUD and shall be consistent with the standards set forth in this subsection.

   b. The PUD shall be planned to complement the layout of the middle school on the adjacent property.

   c. If the PUD plan calls for the creation of individual lots to be sold and/or developed separately, site plan approval under the provisions and standards of Sections 6.5 and 6.6 shall also be required for development on each lot.

   d. Site Layout

      i. The DRB may require the PUD layout to include a road connecting to the end of the access road serving the middle school, running along the edge of the recreation fields and continuing to Route 100. Any new road shall not be connected to the school access road until the entire new road, including the connection to Route 100, is constructed in accordance with Town standards.

      ii. Off-street parking serving buildings opposite the recreation fields shall be located in the side or rear yards, and shall not be in front of the front facade line of buildings.

      iii. Buildings opposite the recreation fields shall be set back no more than twenty feet (20 ft.) from the edge of the right-of-way, and arranged to create a unified street facade and to define a public space around the recreation fields.

   e. Total development in the PUD shall be as set forth in Section 7.2(D)(1)(k).

   f. The DRB may grant a bonus per the provisions of Section 7.2(D)(1)(l).

   g. Development northeast of the power lines shall, to the extent practicable, make use of existing structures.

3. Design Standards for the Area Southwest of the Power Lines

   a. Buildings shall be gabled roofed and not more than two and one-half (2½) stories in height.

b. Buildings shall have brick or stone facades or horizontal siding.
c. Front porches and places for outdoor seating are encouraged.
d. Front facades shall be designed to create the visual image of small storefronts (e.g., bays of approximately twenty-five feet (25 ft.) in width).
e. For proposed development that is of an integrated, unified design, the DRB may approve lots as small as ten thousand square feet (10,000 sf.), provided that doing so furthers the purpose of the State Farm Zoning District.
f. The DRB may approve a zero side yard setback on one side of a lot, provided that doing so furthers the purposes of the State Farm Zoning District.
g. Landscaping shall be provided to create a pleasant streetscape and reinforce the village green concept of the recreation fields.
h. Utilities shall be placed underground.

4. Design Standards for the Area Northeast of the Power Lines
   a. Buildings shall be no more than two and one half (2½) stories in height.
   b. Buildings shall have brick or stone facades or horizontal siding.
   c. Buildings shall not front directly onto Route 100.
   d. There shall be direct access to Route 100 by a single road. The access road and cub cuts shall be consistent with the applicable state standards.
   e. Utilities shall be placed underground.

7.3 Subdivision and PUD Review and Approval Process

A. Discussion/Sketch Plan Review

1. Sketch Plan Requirements. An applicant for subdivision or PUD review shall submit to the Administrative Officer one copy of a proposed sketch plan that includes the information specified for sketch plan review under Section 6.5(B)(2) and the required application fee.
2. Sketch Plan Review. The applicant and/or an authorized agent shall attend an initial meeting with the DRB, to be held at a regularly scheduled meeting of the DRB, to discuss the subdivision application and proposed sketch plan as set forth in Section 6.5(B). At this meeting the DRB may request any additional information needed to classify the application as a major or minor subdivision. This requirement may be waived by the Administrative Officer upon written request of the applicant and a finding by the Administrative Officer that the application does not warrant preliminary review and discussion by the DRB.
3. Classification of Application. Within fifteen (15) days after a public meeting of the DRB to review a sketch plan, the DRB shall notify the applicant in writing whether the subdivision is a minor subdivision or a major subdivision to be reviewed under Sections 7.3 and 7.4. The DRB also may at its discretion provide written recommendations for proposed changes in subsequent submissions, including any requests for additional studies or supporting documentation.

B. Preliminary Plan Review (First public hearing for major subdivisions)

1. Application requirements. Within six (6) months of the date of the DRB's written determination that the subdivision is a major subdivision by the DRB, or within six (6) months of the date of the DRB review of a sketch plan for a PUD application, the

applicant shall submit an application and associated fees for preliminary plan approval as set forth on the form prescribed by the Town, and consistent with the requirements of Section 6.5(C). One (1) original and six (6) copies of the application and an electronic copy shall be submitted. The Administrative Officer shall make a determination of the completeness of the application.

2. Public Hearing. Within sixty (60) days of deeming that the preliminary plan application is complete, the DRB shall warn and shall hold a public hearing on the preliminary plan.
3. Preliminary Plan Approval. Within forty-five (45) days of the date of adjournment of the public hearing on the preliminary plan, the DRB shall approve, approve with modifications, or disapprove the preliminary plan (and where applicable the associated plat) based on a determination conformance with applicable review standards under these Regulations.
4. The DRB may also require, as a condition of approval, the submittal of changes or modifications to the preliminary plan. Approval, conditions of approval, or grounds for disapproval, and provisions for appeal shall be set forth in a written notice of decision.
5. The approval of a preliminary plan shall be effective for a period of six (6) months from the date of written notice of approval, unless otherwise approved or extended by the DRB in the written notice of decision.
6. Phasing. In approving a preliminary plan the DRB may require the proposed project to be divided into two (2) or more phases to ensure the project's conformity with the town plan and capital budget and program currently in effect.
7. Conditions may be imposed upon the filing of an application for final plat approval for an individual phase as the DRB deems necessary to ensure the orderly development of the project and to avoid impacts that cannot be mitigated on Town facilities and services.
8. Effect of Preliminary Plan Approval. Approval of the preliminary plan shall not constitute approval of a final subdivision plan and plat. Subsequent to approval of the preliminary plan, the DRB may require the submission of all applicable approvals of municipal officials and/or agencies having jurisdiction over the project, and such state and federal agencies as may be required by law. Upon receipt of evidence of approval of the preliminary plan by said agencies, as required, and the expiration of all relevant appeal periods, the applicant may apply to the DRB for final plan approval under Section 7.3(C).

C. Final Plan Review (public hearing for minor subdivision and second public hearing for major subdivisions)

1. Application Requirements. Within six (6) months of the date of sketch plan approval for minor subdivisions, and preliminary plan approval for major subdivisions and PUDs, unless otherwise waived by the DRB, the applicant shall submit an application for final plan approval, including plat approval where applicable. An applicant who does not submit a final plan for approval within this time period shall be required to resubmit a sketch plan (for minor subdivisions) or preliminary plan (for major subdivision and PUD) application, along with associated fees.

2. Public Hearing. Within sixty (60) days of the date that the DRB deems that a final plan application is complete, the DRB shall hold a public hearing on the final plan and associated plat, warned in accordance with the procedures in Section 6.5(D). Copies of the hearing notice shall also be sent, at least fifteen (15) days prior to the hearing date, to the clerk of an adjacent municipality in the case of a plat located within five hundred feet (500 ft.) of a municipal boundary.
3. Final Plan Approval. Within forty-five (45) days of the date of adjournment of the public hearing, the DRB shall approve, approve with conditions, or disapprove the final subdivision plan, based on a determination of the plan and associated plat's conformance to the applicable standards for review. Failure to act within such forty-five (45) day period shall be deemed approval on the forty-sixth (46th) day, as certified by the Town Clerk. Approval or disapproval, conditions of approval, and provisions for appeal under Section 10.5, shall be set forth in a written notice of decision. Copies of the notice of decision shall be sent to the applicant and any other interested parties appearing at the public hearing within the forty-five (45) day period.
4. Effect of Final Plan Approval. Approval of a final subdivision plan and associated plat shall not be construed to constitute acceptance by the Town of Duxbury of any street, easement, utility, park, recreation area, or open space shown on the final plat. Such acceptance may be accomplished only by a formal resolution of the Select Board, in accordance with Vermont statute. A final plan approval shall contain a time limit within which all improvements shall be completed, not to exceed three (3) years unless otherwise required or extended by the DRB.
5. Performance Guarantee. Where the installation of roadway, stormwater management, utility or other infrastructure is required as part of subdivision approval, the DRB may require a performance guarantee in the form of a performance bond, letter of credit or other suitable financial guarantee pursuant to Section 6.5(G) of these Regulations.

D. Plat Recording Requirements (applies to all approved subdivisions)

1. Within one hundred eighty (180) days of the date of receipt of final plan approval under Section 7.4(C), the applicant shall file one (1) mylar copy and two (2) paper copies of the final plat for recording with the Town in conformance with the requirements of 27 V.S.A. Chapter 17. All three (3) copies of the final plat shall contain all required elements of the final approval. Approved subdivision plats not filed and recorded within this one hundred eighty (180) day period shall be deemed expired and shall require re-approval by the DRB.
2. Prior to plat recording, the plat must be signed by an authorized member of the DRB. The DRB may, as a condition of final plat approval, require that other notations pertaining to conditions of subdivision approval also be included on the final plat.
3. For any subdivision that requires the construction of roads or other public improvements by the applicant, the DRB may require the applicant to post a performance bond or comparable surety in accordance with Section 6.5(G) prior to signing the final plat.

E. Revisions to an Approved Plat. No changes, modifications, or other revisions that alter the parcel boundaries of any lot, the location or width of any roadway, or any other material

conditions attached to an approved subdivision plan shall be made unless the proposed revisions are first resubmitted to the DRB and the DRB approves such revisions after public hearing. In the event that such subdivision plan revisions are recorded without complying with this requirement, the revisions shall be considered null and void. This provision does not apply to allowable modifications under Section 6.5(F), Field Changes and As-Built Plans.

7.4 Standards for Approval

A. The DRB shall evaluate any minor or major subdivision of land or PUD as defined in Section 7.1 in accordance with the standards set forth in this Article. Where these standards conflict with other provisions of these Regulations, the more stringent provisions shall apply.

B. Character of the Land. All land to be subdivided shall be, in the judgment of the DRB, of such a character that it can be used for the intended purpose(s), as stated in the application, without danger to public health and safety, the environment, neighboring properties, or the rural character and natural beauty of the community. Land designated as flood hazard areas and land characterized by poor drainage, inadequate capability to support structures, including roads, utilities and buildings, or other hazardous conditions shall not ordinarily be subdivided.

C. Lot Layout and Density. Unless specific waivers are granted by the DRB in the approved subdivision or PUD, the following standards shall apply to all subdivisions:

1. Corner Lots. Corner lots shall have sufficient width to meet the requirements for the applicable front yard setback on one road and the applicable side yard setback on the other road(s).
2. Side Lot Lines. Side lot lines shall generally be at right angles to straight streets, or radial to curved street lines.
3. Lot Shape. Lots with regular shapes should be created unless warranted by conditions of topography, the location of natural features or existing road conditions, or where an irregular shape furthers natural resource protection and other objectives of the Town Plan and these Regulations.
4. Lot Frontage. Lots shall meet the lot frontage requirement for the applicable zoning district unless the DRB approves narrower frontages.
5. Lots without Frontage. Upon specific findings by the DRB that sufficient provision is made for safe and sufficient access, and that approval is consistent with applicable goals of the Duxbury Town Plan, lots without frontage on a public or approved private roadway may be created through subdivision or PUD approval. Any such lot shall be served by deeded access from a public roadway via a right-of-way or easement of no less than twenty-five feet (25 ft.) in width at its narrowest point. No Zoning Permit shall be issued for any use other than a single-family or two-family dwelling, and accessory or by-right uses permitted therein, for any lot so established.

D. Lot Sizes and Densities

1. Lot sizes in Table A of these Regulations are a minimum standard; lower densities and/or larger lot sizes may be required by the DRB based on prevailing site

conditions and the potential impact on water resources, erosion, access and public safety.

2. The DRB may permit smaller lots in a PUD approval; however, in no case shall the minimum size of a residential lot be less than seventy-five hundred square feet (7,500 sf.) in the Village District and ten thousand square feet (10,000 sf.) in all other zoning districts where such residential use is permitted.
3. Notwithstanding (2) above, the DRB may, in a PUD approval, permit the construction of footprint lots, co-housing communities, or other alternatives to conventional residential subdivisions, provided the overall density of individual household dwelling units does not exceed the maximum allowable density for the underlying zoning district(s).
4. Establishment of Building Envelopes. The DRB shall require the establishment of building envelopes to identify and limit the location of principal and accessory structures, parking areas, and associated land disturbance and site development on one or more portions of a lot. The DRB may require the identification of specific building footprints where necessary to determine compliance with these Regulations.
5. Lot boundaries shall be configured to prevent the fragmentation of floodplain or wetlands unless appropriate legal mechanisms are put in place to ensure permanent protection.
6. Permanent monuments and corner markers shall be placed on all created parcels.

E. Open Space. Where permanently preserved open space is proposed in conjunction with a subdivision or PUD, the approval shall incorporate requirements that deed restrictions, restrictive covenants, or other appropriate legal means in a form acceptable to the Town attorney be recorded in the Town land records, to ensure the permanent maintenance of the land in the condition prescribed by the approval. In addition:

1. Open space shall be clearly defined on the development plan by location, dimensions, and total area.
2. Dedicated open space shall be in a location or locations, size and shape approved by the DRB, and shall not include buildings, roads, driveways, parking spaces, or yard areas of individual dwellings.
3. Upon approval of the Select Board, land may be dedicated as permanently protected open space to the Town of Duxbury, or to another government unit or non-profit corporation providing written evidence of its intent and ability to manage the land for a period of at least ninety-nine (99) years.

F. Landscaping & Screening. The preservation, planting and maintenance of trees, ground cover or other vegetation, of a size and type deemed appropriate by the DRB, may be required in the following instances:

1. To provide screening of development to increase privacy, reduce noise and glare;
2. To otherwise soften and/or lessen the visual impacts of development;
3. To establish street trees along public or private roads where deemed appropriate; or
4. To establish a barrier between incompatible land uses.

G. Energy Conservation. Subdivision and PUD design shall, as practicable, limit the length of roadways sewer, water and utility lines. The siting of buildings should maximize solar

access where feasible, and landscaping should be effectively used to provide wind barriers and reduce heat loss or gain.

H. Protection of Steep Slopes, Prominent Hilltops and Ridgelines. Subdivision boundaries, lot layout and development envelopes shall be located and configured to minimize adverse impacts to areas of the parcel that have slopes greater than fifteen percent (15%), to prevent disturbance to slopes in excess of twenty-five percent (25%), and to avoid the placement of structures on prominent hilltops and ridgelines. Methods for avoiding such adverse impacts may include the following:

1. Locating development envelopes to exclude these features;
2. Minimizing or eliminating areas of excavation, filling and development on slopes in excess of twenty-five percent (25%);
3. Locating and configuring development envelopes so that the height of any structure placed on the site after subdivision will not visually exceed the height of the adjacent tree canopy serving as the visual backdrop to the structure, and is located down-slope of ridgelines and prominent hilltops.
4. Using or sharing existing accesses and rights-of-way where feasible when developing access roads, including the conversion of logging roads to private roads or driveways, and utility corridors;
5. Leaving land characterized by steep slopes, shallow soils, prominent knolls and ridgelines undeveloped.

I. Roads, Driveways and Pedestrian Access

1. Applicability of Road Standards. These standards apply to all proposed public roads and to private roads serving more than one lot. Acceptance of private roads by the town is subject to the approval of the Duxbury Select Board pursuant to state law for the laying out of public rights-of-way. Construction of roads to these standards in no way ensures such acceptance.
2. Road Design.
    a. All roads, drainage ditches and culverts serving proposed subdivisions shall conform to the VTrans Town Road and Bridge Standards as most recently adopted by the Select Board unless specific modifications are approved by the Select Board.
    b. The DRB may modify such standards in situations where the strict application of the standards would adversely impact the scenic character and/or natural resources or features located on the site.
    c. Permanent dead end roads and cul-de-sacs shall be discouraged unless deemed necessary by the DRB, with concurrence of the Select Board, due to physical site limitations or safety considerations. No dead-end road shall be permitted without a suitable turn-around at its terminus. “T” or “Y” configurations suitable to topography are preferred, but a cul-de-sac with a radius of not less than thirty feet (30 ft.) or more than forty feet (40 ft.) may be approved.
    d. Maximum road grade shall not, for any fifty-foot (50 ft.) section, exceed an average grade of fifteen percent (15%) unless approved by the Select Board.
3. Access (Curb Cut) and Traffic Management. To better manage traffic flow and safety, avoid congestion and frequent turning movements, preserve the carrying capacity of

important travel corridors, and to avoid strip development, the following access management standards shall apply to all subdivisions:

a. Access to state highways shall be subject to the approval of the Vermont Agency of Transportation and access to town roads shall be subject to issuance of an Access Permit under Section 6.12. Access to all lots created by subdivision of any such parcel and to all buildings or other land development located thereon shall be only from such permitted access road or driveway.
b. Shared driveways and/or internal development roads providing access to multiple lots are encouraged.
c. Traffic generated by the proposed subdivision shall not result in unreasonable traffic congestion or exceed the capacity of roads and intersections in the vicinity of the subdivision or PUD. Where an existing access road is inadequate or unsafe, the DRB may require the applicant to upgrade the access road to the extent necessary to serve additional traffic resulting from the subdivision and to conform to these standards. In situations where a development may require the realignment, widening or an increase in the capacity of an existing road, the applicant may be required to reserve land for such improvements.
d. In the case of subdivisions or PUDs requiring construction of new roads, any existing road that provides either frontage to new lots or access to new roads shall meet these standards.
e. Where a subdivision or PUD requires expenditures by the town to improve existing road(s) to conform to these standards, the DRB may disapprove such subdivision until the Select Board certifies that funds for the improvements have been ensured. The applicant may be required to contribute part or all of the expenses involved with road improvements necessitated by the project.
f. Driveways shall be laid out to follow existing linear features, such as utility corridors, tree lines, hedgerows and fence lines.

4. Modification of Road Standards. In the case of unusual topographic conditions or other circumstances that would make the strict adherence to these standards a substantial hardship, the DRB may modify the strict application of one or more of these standards providing the applicant can demonstrate that the proposed road is accessible by emergency response vehicles, does not pose any threat to the safety of motorists or pedestrians, will not result in unreasonable maintenance requirements for landowners, and is designed in a manner that is consistent with other applicable standards of these regulations.
5. Pedestrian Access. Within the Village and State Farm districts, and on properties in any zoning district that are crossed by existing or proposed trails, the DRB may require pedestrian rights-of-way to facilitate pedestrian circulation and to ensure access to adjoining properties or uses or to public facilities.

J. Stormwater Management. Temporary and permanent storm water management and erosion control measures consistent with the Vermont Low-Risk Site Handbook for Erosion Prevention and Sediment Control and Vermont Stormwater Management Manual shall be incorporated into subdivision design and layout to control surface runoff and prevent sedimentation and water pollution on-site and downstream from the proposed subdivision

or PUD. The DRB may require independent technical review of construction or post-construction stormwater management measures in accordance with Section 6.5(B)(4).

K. Municipal Facilities & Services. The proposed subdivision shall not create an undue burden on municipal facilities or create an unreasonable demand for public services. The DRB may require the phasing of development to coordinate the anticipated demand for municipal facilities and services with the planned provision of those facilities and services, in accordance with a duly adopted capital budget and program. In determining whether a subdivision will place an undue burden on facilities or services, the DRB may consult with the appropriate municipal body (e.g., Select Board, School Board).

L. Emergency Service Facilities. The DRB may require that adequate water storage or distribution facilities for fire protection be provided within the subdivision. Where practicable, or where required by the DRB, fire hydrants, dry hydrants, or ponds shall be installed by the applicant. Emergency vehicle access shall be provided to within a minimum distance of fifty feet (50 ft.) of all structures. Adequate turn-around space shall be provided. The DRB may require documentation from emergency service providers as to the adequacy of emergency access and fire protection facilities.

M. Water Supply and Wastewater Treatment. The applicant shall provide evidence of issuance of a Potable Water Supply and Wastewater System permit, or evidence of an approved connection to an existing or proposed Community System, as a condition of final plan approval.

N. Utility Easements. Utility easements of sufficient width shall be provided and shown on the final plat.

ARTICLE 8 SUPPLEMENTAL REGULATIONS

8.1 Off-Street Parking and Loading

A. Off-Street Parking Required

1. Off-street parking and off-street loading facilities shall be provided as required by the regulations of this article for all buildings and structures.
2. Off-street parking facilities in existence on the effective date of these Regulations, and located on the same lot as the building or use served, shall not hereafter be reduced below the requirements for a similar new building or use under the provisions of this article.
3. Where a Zoning Permit has been issued prior to the effective date of these Regulations, and provided construction is begun within six (6) months of such effective date and diligently prosecuted to completion, parking and loading facilities in the amounts required for the issuance of said Zoning Permit may be provided in lieu of any additional amounts required by this article.
4. When the intensity of use of any building, structure, or premises shall be increased through the addition of other units of measurement, such as the addition of dwelling

units, gross floor area, or seating capacity, such additional parking and loading facilities as required herein shall be provided.

5. Whenever the existing use of a building or structure is changed to a new use, parking or loading facilities shall be provided as required for such new use.
6. Required spaces. The ratio of required parking spaces to the number of dwelling units or square feet of various land uses shall be as set forth in Table B.
7. The Town recognizes that the inflexible application of the parking standards set forth in this section may result in a development having either inadequate or excessive parking space. Inadequate parking space may lead to traffic congestion or unauthorized parking in adjacent lots. Excessive parking areas are inefficient, and adversely affect stormwater runoff. The DRB may allow deviations from the numeric requirements in Table B upon finding that the deviation will not adversely affect traffic circulation or public safety.

B. Location and Design of Off-Street Parking Areas

1. All parking spaces required to serve buildings or uses erected or established in single-family detached residence districts after the effective date of the ordinance from which this article is derived shall be located on the same lot as the building or use served unless approved by the DRB in accordance with Section 8.1(B)(2).
2. Buildings or uses other than single-family dwellings existing on the effective date of the ordinance from which this article is derived which are subsequently altered or enlarged so as to require the provision of parking spaces under this article or new uses other than in single-family detached residence districts may be served by parking facilities located on land other than the lot on which the associated building or use is located, provided such facilities are within eight hundred linear feet (800 ft.) of said building
3. Shared off-street parking facilities for separate uses may be provided collectively if the total number of spaces so provided is not less than the sum of the separate requirements for each use, and provided that all regulations governing location of accessory parking spaces in relation to the use served are adhered to.
   Shared parking arrangements shall be subject to review and approval by the DRB.
4. All open off-street parking areas shall be surfaced with a durable and dust-free material, which may include compacted gravel, asphalt, concrete, or a permeable surfacing material.
5. Within the State Farm District, off-street parking areas shall not be located between the principal building and Route 100.
6. Landscaping and Screening.
   a. All open off-street parking areas containing more than four (4) parking spaces generally shall be screened on each side adjoining or fronting on any adjacent parcel or public right-of-way by a combination of landscaping, fencing or walls of sufficient height and opacity to prevent glare and light trespass from vehicle headlights onto adjacent properties or public rights-of-way.
   b. A combination of walls, fencing and vegetation may be used where screening areas incorporate vegetated stormwater management measures provided the DRB finds that the combination of measures will achieve such opacity within three years of planting.

c. Wheel stops of masonry, steel, or heavy timber shall be used at all parking stalls that abut landscaped areas, pedestrian walkways, or stormwater management features in order to prevent damage to or vehicle trespass onto these areas. All wheel stops shall be maintained in a state of good repair.
d. Internal landscaping of parking areas.
   i. Internal landscaped areas equivalent to ten percent (10%) of the surface area of the off-street parking area (including stalls, drive aisles and service areas) shall be required for all off-street parking areas containing more than ten (10) parking spaces.
   ii. At least two (2) deciduous trees of a minimum caliper of one and a half inches (1.5 in.) diameter at breast height at time of planting, or one (1) deciduous tree of a minimum caliper of three inches (3 in.) diameter at breast height at time of planting shall be provided per ten (10) parking spaces.
   iii. All internal and perimeter landscaping beds shall have a minimum area of one hundred square feet (100 sf.) and shall be excavated to a sufficient depth and backfilled with suitable soil and material to provide for healthy tree and landscape growth.
   iv. Internal landscaped areas are encouraged to be designed and graded to provide stormwater treatment.
e. Snow storage areas of sufficient size and dimension to enable storage in locations other than required off-street parking spaces shall be clearly depicted on all applications for approval.

8.2 Signs

A. Permit Required. A Zoning Permit shall be required for the installation or substantial modification of any sign, except where specifically exempted in this section. Approval of a sign by any other municipal, state or governmental agency shall not constitute approval for purposes of these Regulations.

B. Permanent and Temporary Signs
1. Permanent Signs
   a. A maximum of two (2) signs shall be permitted per lot.
   b. On lots with an approved non-residential use other than a home occupation as defined in these Regulations, no sign shall exceed thirty-two square feet (32 sf.) in sign area. Such signs shall be set back at least fifty-five feet (55 ft.) from the center line of the primary road or right-of-way on which the lot fronts. Such signs may be illuminated only with fully shielded internal illumination, with no light source, bulb or other fixture visible from the exterior of the sign, or by a downcasting and shielded fixture per Figure 2 of these Regulations.
   c. On lots with an approved home occupation use (other than a benign home occupation) as defined in these Regulations, no sign shall exceed eight square feet (8 sf.) in sign area. Such signs shall be set back at least thirty-five feet (35 ft.) from the center line of the primary road or right-of-way on which the lot fronts. Such signs may be illuminated only with downcast and shielded lighting. Internally illuminated signs shall not be permitted.

d. Illuminated signs shall shield any portion of the main traveled way of a public road or right-of-way and any adjacent properties from direct beams, glare or rays of light.

2. Temporary Signs. In addition to signs allowed in subsection (1) above, a non-residential use shall be allowed one (1) temporary sign in accordance with the following conditions:
   a. No reader boards or similar such changeable wheeled signs are allowed.
   b. Temporary A-frame or sandwich board signs up to eight (8) feet in height and containing no more than thirty-two (32) square feet in area, and banners up to thirty-two (32) square feet in area advertising an event or activity on the lot where the signs are located are permitted.
   c. Duration of display. Applicants for a temporary sign may choose either (i) or (ii) below but shall not alter their permit within the duration of the permit.
      i. Temporary signs may be maintained for a maximum of fourteen (14) consecutive days once in every two (2) calendar month period, or seven (7) days once each calendar month; OR
      ii. Temporary signs may be maintained for a maximum of five (5) days in a calendar month provided the signs are displayed on the same day of the week for the entire month.
   d. No temporary sign may be illuminated.

C. General Standards and Requirements for Signs

1. Measurement of Sign Area.
   a. Wall signs and banners. The area of a banner or of a sign affixed to a structure that is clearly separate and independent of the sign, such as a building, shall be defined by the actual area of the sign display face. Where such sign is affixed as individual letters or other components or painted on a window or other surface, the area of the sign shall be the area of the smallest rectangle enclosing all of the displayed lettering, logo(s) and/or illustration(s) unless such sign is clearly intended to have some other simple geometric shape, in which case the area shall consist of the area of the intended geometric figure. In the case of a sign bearing messages on two sides only one side shall be used to determine the area.
   b. Free standing signs. The measurement of sign area for a free standing sign shall not include any permanent sign base that is subordinate in appearance to the sign and contains no lettering, logo(s) or illustration(s). Such permanent sign base shall be clearly described with respect to material, dimension and location in the application for the sign permit and shall be part of the sign permit. If not included as part of the sign permit, the permanent sign base shall be considered a structure subject to minimum yard setbacks.
2. Exemptions. The following signs shall not require a permit but shall be subject to all other requirements of this section:
   a. Signs servicing schools or government offices, provided such signs are permanent and are located on the premises and have an area not to exceed thirty two square feet (32 sf.) per side.
   b. Incidental signs for the direction, instruction, or convenience of the public, including signs that identify restrooms, freight entrances, posted areas or the like,

with a sign area not exceeding three square feet (3 sf.) per sign, provided such signs are located on the premises served by the sign.

c. Two (2) temporary real estate "for sale" or "for rent" signs for each lot or part thereof on a public road or right-of-way, provided that such sign does not exceed an area of six square feet (6 sf.) on each side for residential real estate signs and sixteen square feet (16 sf.) on each side for commercial real estate signs. Both sides of the sign may be used and may list the name of an agent. All temporary real estate signs shall be removed within forty-eight (48) hours after Title or leasehold is transferred.
d. Non-illuminated signs with an area not exceeding six square feet (6 sf.) promoting auctions, garage sales or similar short-term sales on a residential property.
e. Signs in or on the rolling stock of a common carrier while in use as such and signs painted on or attached to registered and inspected vehicles so as not to change the exterior dimensions of such vehicle provided that any such vehicle is in use as a vehicle. This exemption does not extend to rolling stock or vehicles when their principal use is advertising by signs on them.
f. Temporary election signs that do not exceed an area of sixteen square feet (16 sf.) on each side, posted in accordance with state law for a period of four (4) weeks before an election date. Political signs shall be removed promptly after the election date.

3. Regulations Applicable to All Signs
   a. A sign shall be constructed, affixed, and maintained in such a way that it does not constitute a hazard to vehicular or pedestrian traffic. No sign shall prevent a clear and unobstructed view of official signs or approaching or merging traffic.
   b. No sign shall be permitted within one hundred fifty linear feet (150 ft.) of the edge of the roadway at any intersection unless affixed to a building.
   c. No sign or exterior display shall contain string lighting, pennants, moving parts or similar attention-gathering devices nor shall they contain or support any device capable of emitting noise. No sign or display shall be illuminated by neon, flashing, moving, or intermittent light.
   d. No sign shall be erected, attached, or maintained upon any utility pole or Town signpost.
   e. No permanent sign shall be erected within or projected into or above any public street or sidewalk right-of-way.
   f. No sign shall be erected which is not on or reasonably near the premises of the activity served by the sign.
   g. The top of a free standing sign shall not extend more than twenty feet (20 ft.) above the nearest finished grade.
   h. No sign which is attached to a building, shall be attached to a roof or extend above the roofline of the building.
   i. No sign shall be illuminated during hours when the premises are unoccupied and not open for business.
   j. Movable signs shall not be permitted except temporary sandwich board signs per Section 8.2(B)(2)(b).

k. No sign shall be affixed to a motor vehicle that is unregistered or otherwise not in regular use as a vehicle.
l. The material, texture, and design of a sign should be in harmony with the area in which it is located and should not detract from the overall rural character of the Town. Material shall be as durable and secure as required for the intended use.

D. State Farm District Sign Plans. Any application for a sign permit for a property located in the State Farm District shall include a sign plan for all signs, which shall be approved by the DRB in accordance with the following standards:

1. All signs shall be consistent with an overall sign plan that provides for consistent sign design with respect to color, shape, typeface, logos and materials.
2. Regulations for areas lying southwest of the power lines (planned village center area)
   a. Freestanding signs shall not be permitted in the area of the State Farm District lying southwest of the power lines (planned village center area)
   b. Signs shall be set back a minimum of ten feet (10 ft.) from the edge of the adjacent right-of-way.
   c. A sign designed to project at 90 degrees from building facades may be approved, provided:
      i. The lowest point of the sign shall not be less than eight (8) feet above finished grade or the level of any adjacent pedestrian walkway, whichever is highest;
      ii. The sign may be no more than eight (8) square feet in sign area; and
      iii. The sign may project no more than four and one half feet (4½ ft.) from the building facade on which it is mounted.
   d. Signs shall conform to all other requirements of this section not otherwise superseded by (2) above.
3. Signs in areas lying northwest of the power lines shall conform to the requirements of Section 7.2(D) of these regulations unless modifications of those requirements are specifically approved by the DRB.

8.3 Lighting

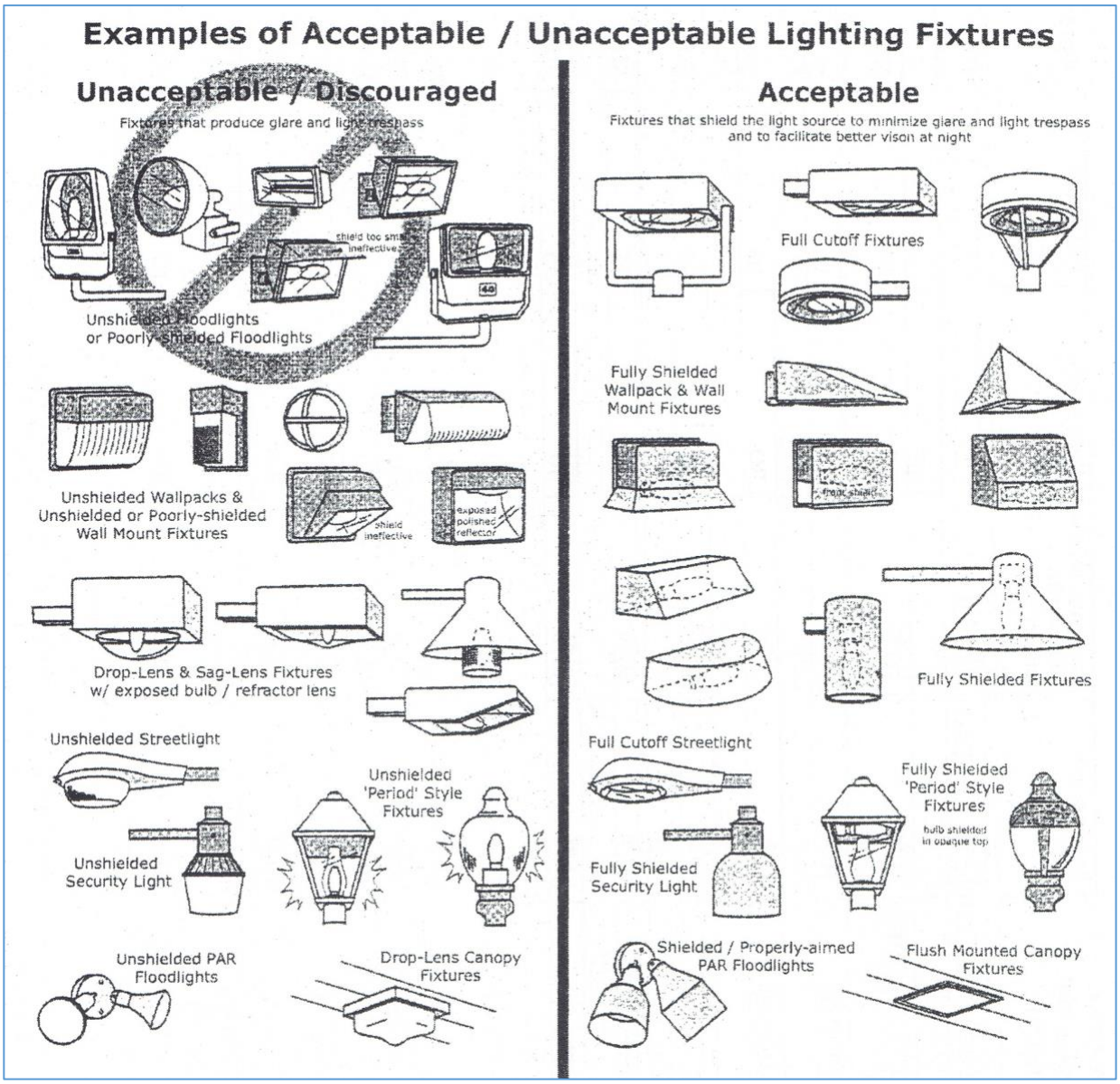
A. Lighting associated with subdivisions reviewed under Article 7 of these regulations will be the minimum required for safety and security, will avoid glare and sky glow, and will not result in an undue adverse effect on neighboring properties and uses or the quality of the night sky.

B. For all projects subject to DRB review, all light fixtures shall be consistent with the guidelines in Figure 2, below, for downcasting and fully shielded light fixtures, which have the effect of obscuring the light source from view.

C. The DRB may request applicants submit lighting cut sheets or a lighting plan indicating the light level on the property and at property boundaries where, in the DRB's judgment, such information is needed to ensure that exterior fixtures and site lighting levels are consistent with these Regulations.

D. Conditions may be imposed as appropriate with regard to the type, height, layout and mounting of exterior lighting fixtures.

Figure 2 Lighting



8.4 Equal Housing Standards

Nothing in these Regulations shall be construed to prohibit or deter the establishment of low and moderate income housing, senior housing or mobile home (trailer) parks in the Town of Duxbury. Nothing in these zoning regulations shall be construed to prohibit or deter the erection or installation of mobile homes or other forms of manufactured or pre-fabricated housing.

8.5 Outdoor Storage and Display

A. Site Plan Review Applicable. In conjunction with Site Plan, Conditional Use or PUD Review under these Regulations, the DRB may limit the total size of outdoor areas for the display of items for sale, and may require screening and other measures to minimize visual and water quality impacts of such areas.

B. Storage of Solid and Hazardous Wastes. No trash, garbage, construction debris, or hazardous or corrosive wastes or chemicals, junk, or other refuse shall be stored on a lot in such a way that may contaminate surface or groundwater, or that otherwise threatens public health and safety.

C. Motor Vehicle. No person shall permit more than three (3) unregistered and/or uninspected motor vehicles or major part or portion of a motor vehicle to remain for more than thirty (30) consecutive days on premises owned, occupied, or controlled by him if the vehicle or parts are within view from any public way or abutting property, unless the vehicle is regularly operated on the premises, or unless the premises constitute a working farm or permitted motor vehicle sales. Any motor vehicle, or portion thereof (such as a trailer), used as a storage structure shall meet all applicable district setbacks.

D. Underground Storage Tanks. All new underground tanks for the storage, sale, or distribution of petroleum products shall be protected from internal and external corrosion such as by all Fiberglass construction, steel with bonded Fiberglass and internal lining, or the Steel Tank Institute 3-Way Protection System. Such tanks shall conform with the requirements of current applicable state and/or federal law.

E. Above-Ground Storage Tanks. The storage of any highly flammable or hazardous liquid in an above ground tank with a storage capacity greater than 500 gallons shall meet all applicable state and federal standards, and the setback requirements and other standards of National Fire Protection Association (NFPA) Code 58 (or the most recent NFPA Code).

8.6 Use of Recreational Vehicles as a Temporary Residence

A. Occupancy Outside of Recreational Vehicle/Travel Trailer Parks

1. One (1) Recreational Vehicle per lot may be utilized as a temporary residence, for a period not to exceed two (2) months in any one (1) calendar year. Such use shall not require a Zoning Permit.
2. Occupancy for periods in excess of two (2) months but no more than 6 months in any one (1) calendar year shall require a Zoning Permit.
3. Occupancy for periods in excess of six (6) months in any one (1) calendar year may be approved by the DRB as a Conditional Use. Continuation of such approval shall require approval of the DRB.

B. Recreational Vehicle/Travel Trailer Parks

1. Recreational Vehicle/Travel Trailer parks or campgrounds may be approved by the DRB as a Conditional Use in accordance with Table A and Table B.
2. As a condition of approval, the DRB may limit the number of Recreational Vehicle or campground sites, limit the duration of occupancy, and impose other conditions as needed to ensure compatibility with adjacent land uses.

ARTICLE 9 UTILITIES

9.1 Wind Turbines

A. Definitions

1. Wind Turbine. A device mounted on a tower, pole support or other structure with or without guy wires intended to generate electric power.
2. Wind Turbine Height. The vertical distance from the tip of the blades positioned at their highest elevation to the lowest point of contact of the pole or tower to the ground.

B. Approval Required

1. Wind turbines shall require the following approvals in the following zoning districts, as established in these Regulations:

Wind Turbine Height	Zoning Permit (Administrative Officer) Required	Conditional Use Review (DRB) Required
130 ft. or less	Forest Recreation Rural Agricultural I and II Village State Farm – Crossett Hill, Middle School, Barn/Buildings and Cemetery Subdistricts	Timber Management and Wildlife State Farm – Plateau Subdistrict
Over 130 ft.	n/a	All Districts except Ecological Reserve Lands and State Farm – River Road and Wetland Subdistricts
Wind Turbines Not Permitted	Ecological Reserve Lands District State Farm – River Road and Wetland Subdistricts	

2. The applicant or applicants for approval shall provide the Town with the manufacturer's specifications and safety information, and other pertinent information, for the specific type of wind turbine to be installed. The information submitted shall include information sufficient to determine the required setbacks under (C) below, and pertinent safety and maintenance instructions
3. Any wind turbine that has not operated for more than twenty-four (24) consecutive months shall be considered abandoned and shall be removed within ten (10) weeks

of receipt of notice from the Administrative Officer. The Administrative Officer may, at his or her discretion, delay issuance of this notice by up to twelve (12) months if presented with credible evidence that reactivation of power generation is planned by the owner within the twelve (12) month period.

C. Setbacks

1. Setbacks shall be measured from the center point of the tower or pole on which the wind turbine is mounted.
2. Each wind turbine shall be set back the greatest of the following distances from all property boundaries, rights-of-way, and power lines excluding residential feed lines:
   a. Twice (2x) the height of the wind turbine at its maximum point, or
   b. One and one-half times (1.5x) the maximum calculated ice or blade throw distance to the maximum point of impact, or
   c. A distance equal to or greater than the manufacturers requirements and recommendations.
3. All such calculations shall be determined by a licensed Vermont professional engineer and submitted by the applicant with the application for a Zoning Permit or Conditional Use Review, as applicable.
4. This setback is not required from property lines where one or more adjacent properties are co-applicants for a permit and will share a wind turbine
5. The required setback may be reduced by an amount equal in distance to that preserved for fall zone on an adjoining property if the fall zone area is documented and a permanent easement recorded in the Duxbury land records.
6. An application to site a wind turbine in a location that does not meet the setback distances in (2) above may be reviewed by the DRB under the procedures and standards for the grant of a variance in Section 6.9 of these Regulations. However, in no case may the DRB reduce the setbacks to less than one and one quarter times (1.25x) the maximum calculated ice or blade throw or one and three quarter times (1.75x) the maximum wind turbine height, whichever is greater.
7. Guy wire anchor points shall meet the yard setbacks for the applicable zoning district unless otherwise approved by the DRB.

D. Site Location and Positioning Standards

1. No wind turbine tower shall be installed in a location where the wind turbine's operation may interfere with an existing microwave communication link, or where its operation may produce electromagnetic interference with signal transmission or reception for existing radio, television, wireless telephone or other personal communication systems.
2. No wind turbine tower shall be installed in a location where the shadow cast by the rotor blades can pass over any neighboring residential building including outside decks, patios or courtyards on properties not owned by the applicant or applicants.

E. Safety Considerations

1. No wind turbine shall be approved or installed that lacks an automatic braking, governing or feathering system to prevent uncontrolled rotation, over-speeding, and excessive pressure on the tower structure, rotor blades or turbine components.

2. The minimum blade clearance shall be fifteen feet (15 ft.) above finished grade.

F. Visual and Aesthetic Considerations

1. No lighting of, or light fixtures on, the tower is permitted unless the applicant can demonstrate that lighting is required by a state or federal agency.
2. No advertisements or signs of any kind, other than safety and operational signs, shall be permitted.
3. Wind turbine towers and blades shall be of a non- reflective color that blends in into the surrounding environment to the greatest extent possible.

9.2 Wireless Telecommunication Facilities

A. Review Required. New or expanded telecommunication facilities, including but not limited to towers and accessory structures, may be permitted in designated zoning districts as conditional uses subject to review under the procedures and standards in Section 6.5 and Section 6.7, and the following provisions:

1. In addition to the provisions of these Land Development Regulations, a proposal for a new tower shall conform to the requirements of the Duxbury Ordinance Regulating Wireless Telecommunications Facilities (adopted May 21, 2001). Where conflicts exist between the provisions of these regulations and the telecommunications ordinance, the stricter provisions shall apply.
2. A proposal for a new tower shall not be permitted unless it is determined by the DRB that the equipment planned for the proposed tower cannot be accommodated on an existing approved tower, building or structure.
3. New towers shall be designed to accommodate the co-location of both the applicant's antennas and comparable antennas for one or more additional users, depending on tower height. Towers must be designed to allow future rearrangement of antennas, and to accept antennas mounted at varying heights.
4. Towers shall be set back from all property lines and public rights-of-way for a distance equaling their total height, including attached antennas, unless the DRB finds that:
   a. the tower design and construction guarantees that it will collapse inwardly upon itself, and there is no risk of damage to adjoining private or public property or injury to persons; or
   b. the location allows for the integration of a tower into an existing or proposed structure such as a church steeple, light standard, utility pole, or similar structure, to the extent that no hazard to public health, safety or welfare results.
5. Tower construction and wiring shall meet all state and federal requirements, including but not limited to Federal Communication Commission requirements for transmissions, emissions and interference. No telecommunication facility shall be located or operated in such a manner that it poses a potential threat to public health or safety.
6. New towers shall be sited and designed to minimize their visibility. No tower shall be located on a ridge line or hill top, and shall be sited so that the highest point of the facility does not exceed the highest point of land in the immediate vicinity of the tower, and does not exceed the height of ten feet (10 ft.) higher than the surrounding

tree canopy or exceed the height of the adjacent ridgeline or hill top. New or modified towers and antennae shall be designed to blend into the surrounding environment to the greatest extent feasible, through the use of existing vegetation, landscaping and screening, the use of compatible materials and colors, or other camouflaging techniques.

7. Towers shall be enclosed by security fencing at least six feet (6 ft.) in height, and shall be equipped with appropriate anti-climbing devices.
8. The use of any portion of a tower for signs other than warning or equipment information is strictly prohibited.
9. Access roads, and all accessory utility buildings and structures shall be designed to aesthetically blend in with the surrounding environment, meet all other minimum requirements for the district in which they are located. Ground-mounted equipment shall be screened from view. Setback, landscaping and screening requirements may be increased as appropriate based on site conditions, and to protect neighboring properties and uses. All utilities proposed to serve a telecommunications site shall be installed underground.
10. All abandoned or unused towers and associated facilities shall be removed within twenty-four (24) months of the cessation of operations at the site, and the site shall be restored to its original appearance. A copy of the relevant portions of any signed lease which requires the applicant to remove the tower and associated facilities shall be submitted at the time of application. A bond or other form of surety acceptable to the Select Board may be required to ensure tower removal and site reclamation.

B. Application Requirements. In addition to the requirements for a conditional use application under Section 6.5 and Section 6.7, applications for new towers shall also include the following:

1. A report from a qualified and licensed Vermont professional engineer which describes tower height, construction design and capacity, including cross-sections, elevations, potential mounting locations, and fall zones;
2. Information regarding the availability of existing towers and buildings located within the site search ring for the proposed site, including written documentation from other tower owners within the search ring that no suitable sites are available;
3. Written documentation that the proposed tower will comply with all requirements of the Federal Communications Commission and Federal Aviation Administration;
4. Any additional information needed to determine compliance with the provisions of these Regulations.

C. Exceptions. Notwithstanding the requirements of subsection (A), wireless telecommunications equipment to be mounted on existing towers, utility poles, or other structures may be permitted by the DRB pursuant to conditional use review under Section 6.7 provided:

1. No changes are made to the height or appearance of such structure except as required for mounting;
2. No panel antenna shall exceed seventy-two inches (72) inches in height or twenty-four (24) inches in width;

3. No dish antenna shall exceed three (3) feet in diameter;
4. Any accompanying equipment shall be screened from view.

D. Exemptions. The following are specifically exempted from the provisions of this section:
1. A single ground or building mounted radio or television antenna or satellite dish not exceeding thirty-six (36) inches in diameter which is intended solely for residential use, and does not, as mounted, exceed thirty-five (35) feet in height above the finished grade at ground level.
2. A citizens band radio antenna or antenna operated by a federally licensed amateur radio operator which does not exceed a height of fifty (50) feet above the finished grade level, whether free standing or mounted, and which meets all setback requirements for the district in which it is located.

9.3 Utility Lines

A. All utility lines, including, but not limited to, electric power, telephone, cable television and internet, in the Ecological Reserve and Timber Management and Wildlife districts shall be placed underground.

B. Limited exceptions may be approved by the DRB for stream crossings that cannot be avoided and where excessive resource damage to the watercourse and riparian zone would result from construction.

ARTICLE 10 ADMINISTRATION AND ENFORCEMENT

10.1 Applicability of Vermont Planning and Development Act

The provisions of Chapter 117 of Title 24, Vermont Statutes Annotated, the Vermont Planning and Development Act, shall govern all matters related to these regulations, including but not limited to the following:
A. Administration and enforcement of these regulations;
B. The effect of the adoption of these regulations;
C. The appointment and powers of the Administrative Officer;
D. The appointment and powers of the DRB;
E. Requirements for Zoning Permits and other approvals;
F. Penalties and remedies;
G. Administration and finance;
H. Public notice; and
I. Appeals and granting of variances.

10.2 Administrative Officer (Zoning Administrator)

A. The Select Board shall appoint an Administrative Officer for a term of three (3) years in accordance with the 24 V.S.A. § 4448. In the absence of the Administrative Officer, an acting Administrative Officer may be appointed by the Select Board, who shall have the same duties and responsibilities of the Administrative Officer in his or her absence.

B. The Administrative Officer shall literally administer and strictly enforce the provisions of these regulations, and in doing so shall inspect development, maintain records, and perform other related tasks as is necessary and appropriate. The Administrative Officer shall be authorized to prepare town permit applications, development review checklists, and other administrative forms, and to update these forms as experience and amendments to these regulations dictate.

10.3 Development Review Board

A. A Development Review Board (DRB), consisting of not fewer than five (5) nor more than nine (9) members, shall be appointed by the Select Board in accordance with 24 V.S.A. § 4460. The Select Board also may assign alternate members to serve on the DRB in situations where one (1) or more members are disqualified or otherwise unable to serve.

B. Terms of appointment for permanent and alternate members shall be in conformity with 24 V.S.A. § 4460.

C. The DRB shall have all review functions specified in these regulations and in 24 V.S.A. 4460(e). It shall adopt procedures and rules of ethics with respect to conflicts of interest, conform with open meeting procedures, carry out review procedures, elect officers, and otherwise conduct business as specified in 24 V.S.A. § 4461.

D. A quorum shall be required for official action. A quorum shall constitute not fewer than a majority of the Board.

E. The Board may examine evidence bearing upon a matter, administer oaths and take sworn testimony on a matter, and require specific proof.

10.4 Planning Commission

A Planning Commission, consisting of not fewer than three (3) nor more than nine (9) members shall be appointed by the Select Board. Terms of appointment for members and operating procedures shall be in accordance with 24 V.S.A. § 4323. The Planning Commission shall carry out powers and duties as specified in 24 V.S.A. § 4325.

10.5 Appeals

A. Appeals of Administrative Officer Decisions

1. Any interested person as defined in Section 10.5(B) may appeal a decision or act of the Administrative Officer within fifteen (15) days of the date of the decision or act by filing a Notice of Appeal with the Duxbury Town Clerk. Notice must be delivered by hardcopy (not electronically), and signed by the appellant. Notice must include appellant's name and contact information, administrative decision being appealed, location/address of subject parcel, and names/addresses of owners of land adjacent

to the subject parcel. Notice must include payment in full of any fees, as established by the Select Board, at the time of filing.

2. The DRB shall hold a public hearing on a notice of appeal within sixty (60) days of its filing, as required under 24 V.S.A. § 4468. The Board shall give public notice of the hearing, and shall mail a copy of the hearing notice to the appellant not less than fifteen (15) days prior to the hearing date.
3. The DRB may reject an appeal or request for reconsideration without hearing, and may render a decision which shall include findings of fact within ten (10) days of the filing of a notice of appeal, if the Board determines that the issues raised by the appellant have been decided in an earlier appeal or are based on substantially or materially the same facts by or on behalf of the appellant, in accordance with 24 V.S.A. § 4470.
4. In accordance with 24 V.S.A. § 4468, all appeal hearings shall be open to the public and the rules of evidence applicable at these hearings shall be the same as the rules of evidence applicable in contested cases in hearings before administrative agencies as set forth in 3 V.S.A. § 810. Any interested person or body may appear and be heard in person or be represented by an agent or attorney at the hearing. The hearing may be adjourned by the DRB from time to time, provided the date and place adjourned hearing shall be announced at the hearing.
5. A decision on appeal shall be rendered within forty-five (45) days after the final adjournment of the hearing, as required per 24 V.S.A. § 4464(b). The decision shall be sent by certified mail to the appellant within the forty-five (45) day period. Copies of the decision shall be mailed to every person or body appearing and having been heard at the hearing, and filed with the Administrative Officer and the Municipal Clerk as part of the public records of the municipality. Failure of the DRB to issue a decision within this forty-five (45) day period shall be deemed approval and shall be effective on the forty-sixth (46th) day.

B. Interested Persons. In accordance with 24 V.S.A. § 4465(b), an interested person includes any of the following:

1. An individual or entity owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a bylaw, who alleges that the bylaw imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case;
2. The Town of Duxbury or any adjoining municipality;
3. An individual or entity owning or occupying property in the immediate neighborhood of a property which is the subject of a decision or act taken under these regulations, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes or terms of the plan or bylaw of that municipality; or
4. Any ten (10) registered voters or property owners within the municipality who, by signed petition to the DRB, allege that any relief requested by a person under this section, if granted, will not be in compliance with the policies, purposes or terms of the plan or regulations of the municipality. This petition must designate one (1)

person to serve as a representative of the petitioners regarding all matters related to the appeal.

5. Any department or administrative subdivision of the state owning property or any interest therein within the municipality or adjoining municipality, and the Vermont Agency of Commerce and Community Development.

C. Stay of Enforcement

1. An appellant may request a stay of enforcement of the regulatory provisions which are the subject of the appeal by filing a request for stay along with the notice of appeal. The appellant shall file the request with the Development Review Board. The request for stay of enforcement shall be in writing and shall state the grounds for the request by affidavit.
2. The Development Review Board may, after public hearing, grant a stay of enforcement of the regulatory provisions, if the Board finds that irreparable harm or irremediable damage will directly result if the stay is denied.
3. Within fifteen (15) days that the notice of appeal and request for stay is filed with the Development Review Board, the Board shall render a decision. The failure to render a decision within that time period shall be deemed a decision in favor of the appellant. The Board shall within the fifteen (15) days:
   a. Provide fifteen (15) days notice of a public hearing by publication in a paper of general daily or weekly circulation in the municipality and posting notice in two public places within the municipality;
   b. Provide notice to the appellant by mail;
   c. Conduct a public hearing;
   d. Render a decision;
   e. Forward a copy of the decision to the appellant via certified mail;
   f. Forward copies of the decision to each attendant at the public hearing on the appeal; and
   g. Provide copies to the Administrative Officer and the Town Clerk's Office.
4. The Board may grant a stay of enforcement, under such terms and conditions, including, without limitation, a bond to be furnished by the appellant.
5. Any stay granted by the Development Review Board shall expire after the expiration of the time to appeal to the Environmental Court.

D. Notice of Appeal. A notice of appeal filed under this section shall be in writing and include the following information, in accordance with 24 V.S.A. § 4466:

1. The name and address of the appellant;
2. A brief description of the property with respect to which the appeal is taken;
3. A reference to applicable provisions of these regulations;
4. The relief requested by the appellant, including any request for a variance from one or more provisions of these regulations; and
5. The alleged grounds why such relief is believed proper under the circumstances.

E. Appeals to the Vermont Environmental Court. In accordance with 24 V.S.A. § 4471, an interested person who has participated in a regulatory proceeding of the DRB may appeal a decision rendered by the Board under Article 6 or Article 7 of these Regulations within

thirty (30) days of such decision to the Vermont Environmental Court. Appeals to the Vermont Environmental Court shall also meet the following requirements:

1. Participation in a DRB proceeding shall consist of offering, through oral or written testimony, evidence of a statement of concern related to the subject of the proceeding.
2. The notice of appeal shall be filed by certified mailing, with any applicable fees, to the Environmental Court and by mailing a copy to the Town Clerk, or the Administrative Officer if so designated, who shall supply a list of interested persons (including the applicant if not the appellant), to the appellant within five (5) working days.
3. Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person. If any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.

10.6 Violations and Enforcement

A. Violations. The commencement or continuation of any land development or subdivision that does not meet the requirements of these regulations shall constitute a violation. All violations shall be pursued in accordance with 24 V.S.A. § 4451 and § 4452. Each day that a violation continues shall constitute a separate offense. The Administrative Officer shall institute, in the name of the Town of Duxbury, any appropriate action, injunction or other proceeding to enforce the provisions of these regulations. All fines imposed and collected shall be paid to the municipality.

B. Notice of Violation

1. No action may be brought under this section unless the alleged offender has had at least seven (7) days warning notice by certified mail that a violation exists, as required in 24 V.S.A. § 4451. The notice of violation also shall be recorded in the land records of the municipality. The notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven (7) day notice period, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven (7) days.
2. Action may be brought without notice and opportunity to cure if the alleged offender repeats the violation of the regulations after the seven (7) day notice period and within the next succeeding twelve (12) months.

C. Limitations on Enforcement. An action, injunction or other enforcement proceeding relating to the failure to obtain or comply with the terms and conditions of any required or duly recorded municipal land use permit may be instituted against the alleged offender if the action, injunction or other enforcement proceeding is instituted within fifteen (15) years from the date the alleged violation first occurred, and not thereafter, in accordance with 24 V.S.A. § 4454. The burden of proving the date the alleged violation first occurred shall be on the person against whom the enforcement action is instituted. No enforcement proceeding may be instituted to enforce an alleged violation of a municipal land use permit unless the permit or a notice of the permit has been recorded in the land records of the municipality.

ARTICLE 11 FLOOD HAZARD OVERLAY DISTRICT

11.1 Statutory Authorization

To affect the purposes of 10 V.S.A. Chapter 32, and in accordance with the Vermont Planning and Development Act, 24 V.S.A. § 4424, there are hereby established a Flood Hazard Overlay District and associated regulations in the Town of Duxbury, Vermont. These regulations are intended to comply with federal requirements for all areas of special flood hazard in the Town of Duxbury. Where conflicts exist between the provisions of this section and other provisions of these Land Development Regulations, the stricter provisions shall apply.

11.2 Purpose

It is the purpose of these regulations to:

A. Implement the goals, policies, and recommendations in the current Duxbury Town Plan;
B. Avoid and minimize the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding;
C. Ensure that the selection, design, creation, and use of development is reasonably safe and accomplished in a manner that is consistent with public wellbeing, does not impair flood plain services or the stream corridor;
D. Manage the flood hazard area designated pursuant to 10 V.S.A. § 753, the municipal hazard mitigation plan; and make the Town of Duxbury, its citizens, and businesses eligible for federal flood insurance, federal disaster recovery funds, and hazard mitigation funds as may be available.

11.3 Applicability

These regulations shall apply to the following areas:

A. All areas in the Town of Duxbury, Vermont identified as areas of special flood hazard in and on the most current flood insurance studies and maps published by the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. § 753, which are hereby adopted by reference and declared to be part of these regulations.
B. All areas that are within one hundred feet (100 ft.) measured horizontally of the outside edge of the area of special flood hazard and less than five feet (5 ft.) above the base flood elevation where such elevations have been established by FEMA, unless a survey prepared by a licensed land surveyor demonstrates that the area is above the base flood elevation. Such a survey shall be prepared at the applicant's expense and shall be subject to Independent Technical Review in accordance with Section 6.5(B)(4) of these Regulations.

11.4 Permit Required

A permit is required, to the extent authorized by Vermont law, for all proposed construction or other development, including the placement of manufactured homes, in areas of special flood hazard. Conditional use approval by the DRB is required for new buildings, substantial improvement of existing buildings, and development in a floodway prior to being permitted by the Administrative Officer. All development and subdivisions shall be reviewed to ensure that such proposals minimize potential flood damage, public facilities and utilities such as sewer, gas, electrical, and water systems are constructed in a manner that minimizes flood damage, and adequate drainage is provided to reduce exposure to flood hazards.

11.5 Approval Procedures

A. Prior to issuing a permit, a copy of the application and supporting information shall be submitted by the Administrative Officer to the State Floodplain Manager at the Vermont Agency of Natural Resources, Department of Environmental Conservation, Rivers Program in accordance with 24 V.S.A. § 4424. A permit may be issued only following receipt of comments from the Agency or the expiration of thirty (30) days from the date the application was mailed to the Agency, whichever is sooner. The DRB shall consider the Agency comments during its review.

B. Adjacent communities and the River Management Engineer at the Vermont Agency of Natural Resources, Department of Environmental Conservation, Rivers Program shall be notified at least thirty (30) days prior to issuing any permit for the alteration or relocation of a watercourse and copies of such notification shall be submitted to the Administrator of the National Flood Insurance Program. Any permit issued shall ensure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

C. The applicant shall submit a Project Review Sheet from the Vermont Agency of Natural Resources for the proposal to the Administrative Officer as part of a complete building permit application. This review sheet shall identify all State and Federal agencies from which permit approval is required. The applicant shall obtain all such permits prior to the issuing of a building permit.

11.6 Base Flood Elevations and Floodway Limits

A. Where available, base flood elevations and floodway limits (or data from which a community can designate regulatory floodway limits) provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps shall be used to administer and enforce these regulations.

B. In areas where base flood elevations and floodway limits have not been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, base flood elevations and floodway data provided by FEMA or available from State or Federal agencies or other sources, it is the applicant's responsibility to develop the necessary

data. Where available, the applicant shall use data provided by FEMA, or State, or Federal agencies.

C. Until a regulatory floodway has been designated, no new construction, substantial improvements, or other development shall be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development will not increase the water surface elevation of the base flood more than one foot (1 ft.) at any point within the community.

11.7 Development Standards

A. Floodway Areas

1. Encroachments or development above grade and less than one foot above the base flood elevation, are prohibited unless hydrologic and hydraulic analyses are performed in accordance with standard engineering practice, by a licensed Vermont professional engineer, certifying that the proposed development will:
   a. Not result in any increase in flood levels (0.00 feet) during the occurrence of the base flood;
   b. Not increase any risk to surrounding properties, facilities, or structures from erosion or flooding.
2. Public utilities may be placed underground, and the analyses may be waived, where a licensed Vermont professional engineer certifies that there will be no change in grade and the utilities will be adequately protected from scour.
3. Storage facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials, are prohibited within the floodway.

B. Special Flood Hazard Areas.

1. All development shall be:
   a. Reasonably safe from flooding;
   b. Designed, operated, maintained, modified, and adequately anchored to prevent flotation, collapse, release, or lateral movement of the structure;
   c. Constructed with materials resistant to flood damage;
   d. Constructed by methods and practices that minimize flood damage;
   e. Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
   f. Adequately drained to reduce exposure to flood hazards;
   g. Located so as to minimize conflict with changes in channel location over time and the need to intervene with such changes; and
   h. Required to locate any fuel storage tanks (as needed to serve an existing building in the Special Flood Hazard Zone) a minimum of one foot above the base flood elevation and be securely anchored to prevent flotation; or storage tanks may be placed underground, if securely anchored as certified by a qualified professional.
2. Residential development, including new construction, existing buildings to be substantially improved, manufactured homes to be placed, and existing

manufactured homes to be substantially improved, that is located in Zones A, A1-30, AE, and AH shall have the lowest floor, including basement, elevated to at least one foot (1 ft.) above the base flood elevation. This must be documented, in as-built condition, with a FEMA Elevation Certificate.

3. Non-Residential Development
   a. New construction located in Zones A, A1-30, AE, and AH shall have the lowest floor, including basement, elevated at least two feet (2 ft.) above the base flood elevation.
   b. Existing buildings to be substantially improved located in Zones A, A1-30, AE, and AH shall have the lowest floor, including basement, elevated to at least two feet (2 ft.) above the base flood elevation, or together with attendant utility and sanitary facilities be designed so that two feet (2 ft.) above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
   c. A permit for a building proposed to be floodproofed shall not be issued until a licensed Vermont professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.
   d. New construction and buildings that are substantially improved must be documented, in as-built condition, with a FEMA Elevation Certificate.
4. Subdivisions
   a. New subdivision proposals or other proposed development (including proposals for manufactured home parks and subdivisions) that are greater than fifty (50) lots or five (5) acres, whichever is the lesser, shall include base flood elevation data.
   b. Subdivisions (including manufactured home parks) shall be designed to ensure that:
      i. such proposals minimize flood damage within the flood-prone area;
      ii. public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and
      iii. adequate drainage is provided to reduce exposure to flood hazards.
5. Enclosed Areas Below the Lowest Floor. Fully enclosed areas that are above grade, below the lowest floor, below base flood elevation and subject to flooding, shall:
   a. Be solely used for parking of vehicles, storage, or building access, and such a condition shall clearly be stated on any permits; and
   b. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs must be certified by a licensed Vermont professional engineer or architect, or meet or exceed the following minimum criteria: A minimum of two openings on two walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

6. Existing buildings, including manufactured homes, to be substantially improved in Zone AO shall have the lowest floor, including basement, elevated above the highest adjacent grade, at least as high as the depth number specified on the FIRM, or at least two feet if no depth number is specified.

7. Recreational Vehicles placed on sites within Special Flood Hazard Areas shall be on the site for fewer than one hundred eighty (180) consecutive days, be fully licensed and ready for highway use, or be permitted in accordance with the elevation and anchoring requirements for "manufactured homes."

8. Accessory Structures that represent a minimal investment need not be elevated to the base flood elevation, provided the accessory structure:
   a. Shall not be used for human habitation;
   b. Shall be designed to have low flood damage potential;
   c. Shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
   d. Shall be firmly anchored to prevent flotation; and
   e. Shall have service facilities such as electrical and heating equipment elevated or floodproofed.

9. Water supply systems, both new and replacement, shall be designed to minimize or eliminate infiltration of flood waters into the systems.

10. Wastewater treatment and dispersal (sanitary sewage) systems, both new and replacement, shall be designed to minimize or eliminate infiltration of flood waters into the systems, and discharges from the systems into flood waters.

11. Onsite wastewater treatment systems shall be located to avoid impairment to them or contamination from them during flooding.

12. Subdivisions and Planned Unit Developments must be accessible by dry land access outside the Special Flood Hazard Area.

13. Watercourse carrying capacity within any altered or relocated portion of a watercourse shall be maintained.

11.8 Duties and Responsibilities of the Administrative Officer

A. The Administrative Officer shall complete substantial damage determinations for damaged properties in the Special Flood Hazard Area.

B. The Administrative Officer shall maintain a record of:
1. All permits issued for development in areas of special flood hazard;
2. Elevation Certificates with the as-built elevation (consistent with the datum of the elevation on the current Flood Insurance Rate Maps for the community) of the

lowest floor, including basement, of all new or substantially improved buildings (not including accessory buildings) in the Special Flood Hazard Area;
3. Substantial damage determinations;
4. All floodproofing and other certifications required under this regulation; and
5. All variance actions, including justification for their issuing.

11.9 Variances to the Development Standards

A. Variances may be granted in writing by the DRB only in accordance with all the criteria in 24 V.S.A. § 4469, § 4424(E), and 44 CFR Section 60.6, after a public hearing noticed as described in Article 6.

B. Any variance issued in the Special Flood Hazard Area will not increase flood heights, and will inform the applicant in writing over the signature of a community official that the issuance of a variance to construct a structure below the base flood elevation increases risk to life and property and will result in increased flood insurance premiums up to amounts as high as $25 for $100 of coverage. Such notification shall be maintained with a record of all variance actions.

11.10 Warning of Disclaimer of Liability

These regulations do not imply that land outside of the areas of special flood hazard or land use permitted within such districts will be free from flooding or flood damages. These regulations shall not create liability on the part of the Town of Duxbury or any town official or employee thereof for any flood damages that result from reliance on these regulations or any administrative decision lawfully made thereunder.

11.11 Precedence of Regulations

The provisions of these regulations shall not in any way impair or remove the necessity of compliance with any other applicable ordinances or regulations. Where these regulations impose a greater restriction, the provisions of these regulations shall take precedence.

11.12 Enforcement and Penalties

A. It shall be the duty of the Administrative Officer to enforce the provisions of these regulations.

B. Whenever any development occurs contrary to these flood hazard area regulations, the Administrative Officer, at his/her discretion, shall institute appropriate action in accordance with the provisions of 24 V.S.A. § 1974a or pursuant to 24 V.S.A. § 4451 or 24 V.S.A. § 4452 to correct the violation. No action may be brought unless the alleged offender has had at least a seven (7) day warning notice by certified mail. An action may be brought without the seven (7) day notice and opportunity to cure if the alleged offender repeats the violation after the seven (7) day notice period and within the next succeeding twelve (12) months. The seven (7) day warning notice shall state that a violation exists, that the alleged offender has

an opportunity to cure the violation within the seven (7) days, and that the alleged offender will not be entitled to an additional warning notice for the presence of the same violation after the seven (7) days.

C. If the structure is still noncompliant after the opportunity to cure has passed, the Administrative Officer shall submit a declaration to the Administrator of the NFIP requesting a denial of flood insurance. Section 1316 of the National Flood Insurance Act of 1968, as amended, authorizes FEMA to deny flood insurance to a property declared by a community to be in violation of their flood hazard area regulations. The declaration shall consist of:

1. The name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
2. A clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;
3. A clear statement that the public body making the declaration has authority to do so and a citation to that authority;
4. Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and
5. A clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

11.13 Definitions

The following definitions apply only to Article 11 of the Town of Duxbury Land Development Regulations. Other definitions are found in Section 2.2, Definitions.

Base Flood. A term for the Flood having a one percent (1%) chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE). The height of the base flood, usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report, or average depth of the base flood, usually in feet, above the ground surface.

Development. Any human-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Existing manufactured home park or subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an existing manufactured home park or subdivision. The preparation of additional sites by the construction of facilities for servicing the lots on which the

manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood. Either:

A. A general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and mudslides which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current; or
B. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

Flood Insurance Rate Map (FIRM). An official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study. An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood related erosion hazards.

Floodplain or flood-prone area. Any land area susceptible to being inundated by water from any source (See Flood).

Flood proofing. Any combination of structural and non-structural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway, Regulatory in Town of Duxbury. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot at any point.

Historic structure. Any structure that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) by an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

Land Development. The construction, reconstruction, structural alteration, relocation, or enlargement of any building or other structure or land, or extension of use of land. In the Flood Hazard Area, this definition additionally includes any human-made changes to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Lowest Floor. The lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.

Manufactured home park or subdivision. A parcel, or contiguous parcels, of land divided into two (2) or more manufactured home lots for rent or sale.

New construction.

A. For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.
B. For floodplain management purposes, structures for which the start of construction commenced on or after the effective date of the floodplain management regulation adopted by a community including any subsequent improvements to such structures.

New manufactured home park or subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.

Special Flood Hazard Area. The land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the Flood Insurance Rate Map (FIRM), Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/AI-30, AR/AE, AR/AO, AR/AH, AR/A, VO or V1-30, VE, or V. For purposes of these regulations, the term "special flood hazard area" is synonymous with the phrase "area of special flood hazard."

Start of Construction. Includes substantial improvement, and determined by the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within one hundred eighty (180) days of the permit date. The "Actual Start" refers to either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation

for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction includes the first alteration of any wall, ceiling, floor, or other structural part of a building, regardless whether that alteration affects the external dimensions of the building.

Structure.

A. For floodplain management purposes, a walled and roofed building, including a manufactured home and/or a gas or liquid storage tank, that is principally above ground.
B. For insurance purposes, a building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site; a manufactured home (also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or a travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community's floodplain management and building ordinances or laws. For the insurance purposes, "structure" does not mean a recreational vehicle or a park trailer or other similar vehicle, except "travel trailers" as described above, or a gas or liquid storage tank.

Violation. The failure of a structure or other development to fully conform with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of conformity required in 44 CFR 60.3 is presumed to be in violation until such time as documentation is provided.

ARTICLE 12 PERFORMANCE STANDARDS

12.1 No land or structure in any zoning district shall be used or occupied in any manner that creates dangerous, injurious, noxious or otherwise objectionable conditions which adversely affect the reasonable use of adjoining or nearby properties.

12.2 In accordance with 24 V.S.A. § 4414(5), the following performance standards, as measured at the property line, must be met and maintained in all districts for all uses, except for agriculture and forestry. No use, under normal circumstances, shall cause or result in:

A. Smoke, dust, noxious gases, or other forms of air pollution that constitute a nuisance or threat to neighboring landowner(s), business(es) or resident(s); which endanger or adversely affect public health, safety or welfare; or which cause damage to property or vegetation.
B. Electromagnetic disturbances or electronic transmissions or signals that will repeatedly and substantially interfere with the reception of radio, television, or other electronic signals, or which is otherwise detrimental to public health, safety and welfare (except from facilities which are specifically licensed and regulated through the Federal Communications Commission).
C. Glare, lumen, light, or reflection that impairs the vision of motor vehicle operators, which constitute a nuisance to another property owner(s) or tenant(s), or which is otherwise detrimental to public health, safety and welfare.

D. Liquid or solid waste or refuse that cannot be disposed of by available methods without undue burden to municipal or public disposal facilities, which pollute surface or ground waters, or which is otherwise detrimental to public health, safety and welfare.
E. Undue fire, explosive, radioactive emissions, or other hazard that endangers the public, public facilities, or neighboring properties, or which results in a significant increased burden on municipal facilities and services.

12.3 In determining on-going compliance, the burden of proof shall fall on the applicant, parcel owner, and/or all successors and assignors. In the event of a formal complaint, should the applicant, parcel owner, and/or successors and assignors, determine that assistance of an independent consultant or consultants to evaluate and/or document conditions is warranted, and the results of said evaluation confirm compliance, the reasonable costs of consultant services shall be paid for by the person or persons who initiated the complaint.

12.4 Agricultural operations should at a minimum observe the most current Required Agricultural Practices (RAPs) as defined and administered by the Vermont Agency of Agriculture.

12.5 Forestry operations should at a minimum observe Acceptable Management Practices (AMPs) published by the Vermont Department of Forests, Parks and Recreation.

12.6 The Administrative Officer or DRB may consult with state and federal regulatory agencies in determining accepted performance standards for a particular use.

May 29, 2018

Table A
Dimensional Standards

	ECOLOGICAL RESERVE LANDS	TIMBER MANAGEMENT AND WILDLIFE	FOREST RECREATION	RURAL AGRICULTURAL I & II	VILLAGE	STATE FARM						
						Crossett Hill	River Road	Plateau	Wetland	Middle School	Barn Buildings	Cemetery
Elevation	Lands at or above 2500'	Lands at 1500' to 2500'	Lands below 1500'									
Maximum Density	n/a					1 dwelling per 10 acres	n/a	n/a	n/a	n/a	1 acre per structure	n/a
Minimum Lot Size (May be waived in a PUD if overall number of allowable units is not exceeded)	n/a	25 acres per permitted use	5 acres per permitted use	1 acre per use; 10,000 SF per unit for inns, RV/travel trailer parks; Light Industry not to exceed 7,500 GSF floor area regardless of lot size; Non-residential uses not to exceed 20,000 GSF floor area in a single project.	10,000 SF per dwelling unit; 20,000 SF per use for all other uses; Light Industry not to exceed 7,500 GSF floor area regardless of lot size; Non-residential uses not to exceed 20,000 GSF floor area in a single project.	2 acres per dwelling; 25 acres per use for all other uses	25 acres per use	1 acre per use	25 acres per use	10 acres per use		No subdivision permitted
					Minimum of one acre required for PUD							
Maximum Lot Coverage	n/a	10%	20%	35%	35%							
Minimum Lot Frontage	n/a	150 feet	150 feet	200 feet for lots abutting Route 100; 100 feet for all other lots	90 feet	100 feet for residential uses; 200 feet for all other uses	200 feet	200 feet	200 feet	200 feet	50 feet	100 feet
Minimum lot frontage may be waived for single- and two-family residential uses under Section 7.4(B)(5) in a PUD approval)												
Minimum Front Setback	n/a	40 feet	40 feet	40 feet	40 feet	70 feet from the center of the traveled portion of all roads	n/a	200 feet from the centerline of the traveled portion of the road	n/a	70 feet	15 feet from edge of right of way	
Minimum Side and Rear Setbacks	n/a	40 feet	40 feet	40 feet	10 feet	40 feet for residential uses	n/a	40 feet or as set forth in Section 5.9 for extraction of sand, gravel or soil.	n/a	40 feet	10 feet	40 feet
Minimum Setbacks for Accessory Structures (See Section 6.2(A) and (C):	n/a	40 feet	40 feet	40 feet	10 feet, except 5 feet for incidental structures	40 feet	n/a	40 feet	5 feet	5 feet	5 feet	5 feet
Minimum Setbacks from Roads and Rights-of-way:												
All Public Roads		70 feet from center of the traveled portion of all roads; 80 feet from the center of a four-rod road	70 feet from center of the traveled portion of all roads; 80 feet from the center of a four-rod road	70 feet from the center of the traveled portion of all roads; 80 feet from the center of a four-rod road	70 feet from the center of the traveled portion of all roads; 80 feet from the center of a four-rod road							
Specific Roads						Crossett Hill Road: 200 feet from centerline of traveled portion of road				Route 100: 200 feet from centerline of traveled portion of road, except that a small portion of outdoor recreation facilities may intrude on this setback if well screened from the road	Route 100: 200 feet from centerline of traveled portion of road	Route 100: 200 feet from centerline of traveled portion of road; Old Route 100: 70 feet from the centerline of the traveled portion of the road; Cemetery Road: 25 feet from the centerline of the traveled portion of the road

May 29, 2018

Table B
Uses

	ECOLOGICAL RESERVE LANDS	TIMBER MANAGEMENT AND WILDLIFE	FOREST RECREATION	RURAL AGRICULTURAL I & II	VILLAGE	STATE FARM: Crossett Hill	STATE FARM: River Road	STATE FARM: Plateau	STATE FARM: Wetland	STATE FARM: Middle School	STATE FARM: Barn Buildings	STATE FARM: Cemetery	**OFF-STREET PARKING** Section 8.1: For accessory or home occupations, spaces in addition to requirement for dwelling unit
Bed and Breakfast			C	C	C	C		C					2 spaces plus 1 space per guest room
Cemetery			C	C	C			C				P	2 spaces plus 1 space per 3 acres of area
Congregate Housing				C	C	C		C			C	C	0.75 spaces per unit
Day Care Facility (Section 5.3):													
In single or two-family dwelling (Section 5.3(B))			P	P	P	P		C				P	1 additional space
In other structure (Section 5.3(C))				C	P - Site Plan Required	P - Site Plan Required		C				C	1 additional space per non-resident employee; site plan shall indicate drop-off/pick-up areas
Dwelling:													
Single-Family		C	P	P	P	P		C			P	P	2 spaces
Two-Family				P	P	PUD		C			PUD	PUD	4 spaces
Multi-Family				PUD	C	PUD		C			PUD	PUD	1.5 spaces per unit
Seasonal (Camp)			P	P				C					n/a
Accessory		C	P	P	P	P		C			P (note 1)	P	2 spaces
Extraction of Sand and Gravel (Section 5.9)			C	C	C			P					1 space per employee at maximum shift
Farm & Farm Structures		P	P	P	P	P		C		P	P	P	1 space per 200 SF of area involved in any activity open to public, including indoor and outdoor display and sales area
Forest Use:													
Portable saw mills/chipping operations only	P	P	P	P		P	P	C	P	P	P	P	n/a
Permanent processing and saw mill operations			C	C		P		C			C	C	1 space per employee at maximum shift
Fuel Sales				C				C					1 space per 2 gas pumps
Garages, Private		*Permitted as accessory structures for single-family, two-family and seasonal dwellings subject to dimensional requirements for accessory structures in Table A, or as permitted under Site Plan or PUD reivew by the DRB*											n/a
Home Occupations:													
Benign Home Occupation (Section 5.6(C))		*Permitted in all legal dwelling units except seasonal (camp) dwellings per Section 5.6(C)*											n/a
Home Occupation (Section 5.6)		C	C	P	P	C		C			C	C	1 space per non-resident employee
Inn			C	C	C	C		C			C	C	4 spaces plus 1 space per guest room
Light Industry				C	C			C			C	C	1 space per 350 GSF
Medical Clinic **not exceding 5,000 GSF floor area**				C	C			C			C	C	1 space per 200 GSF
Mobile Home Park				PUD	PUD			C				PUD	2 spaces per unit plus 1 guest space per 4 units
Net Metered Power System		*Systems subject to regulation by the Vermont Public Service Board and exempt from local zoning requirements*											n/a
Nursing Home				C	C			C			C	C	0.75 spaces per bed
Office				C	C			C			C	C	1 space per 250 GSF
Place of Worship			C	P - Site Plan Required	P - Site Plan Required			C					1 space per 3 seats at maximum occupancy
Public Facility													
Public Facility (24 VSA 4413)			C	C	P - Site Plan Required			C		P - Site Plan Required	C	C	DRB review required
Cultural uses and facilities (private, public or quasi-public)				C	P - Site Plan Required			C		C	C	C	1 space per 3 persons maximum occupancy
Municipal Facilities			C	C	P - Site Plan Required			P		C	C	C	1 space per 250 GSF for office use
Recreation													
Recreation, permanent structures permitted			C	C	P - Site Plan Required	C		C		P	P	P	DRB review required
Recreation, temporary structures only		C	C	P - Site Plan Required	P - Site Plan Required		P - Site Plan Required	C	P - Site Plan Required	P	P	P	DRB review required
Recreation, Passive, trail shelters and warming huts only	C	P	P	P	P	P	P	C	P - Site Plan Required	P	P	P	
Recreation, Passive, no associated structures	P	P	P	P	P	P	P	C	P - Site Plan Required	P	P	P	
RV/Travel Trailer Park				C				C					1 per RV hook-up plus 1 additional space per 5 RV hook-ups
Residential Care Facility		*Permitted in legal single-family dwelling units per 24 VSA 4412(1)(g)*											1 space per non-resident employee
Restaurant				C	C	C		C					
Retail Use *(Definitions Page 22)*				C	C			C			C	C	1 space per 200 GSF or as determined by the DRB
Storage Units				C	C			C					1 space per 8 storage units
Telecommunications Facility		C	C	C	C	C		C		C	C	C	n/a
Wind Turbines													
130 ft. in height or less		C	P	P	P	P		C		P	P	P	n/a
Over 130 ft. in height		C	C	C	C	C		C		C	C	C	n/a

Note 1: Permitted use applies only to accessory apartments

Duxbury Land Development Regulations

Proposed Zoning Map Corrections and Changes

February 22, 2018

The Duxbury Planning Commission is proposing five corrections to the official Duxbury Zoning Map. All of these changes are in the vicinity of the village and state farm.

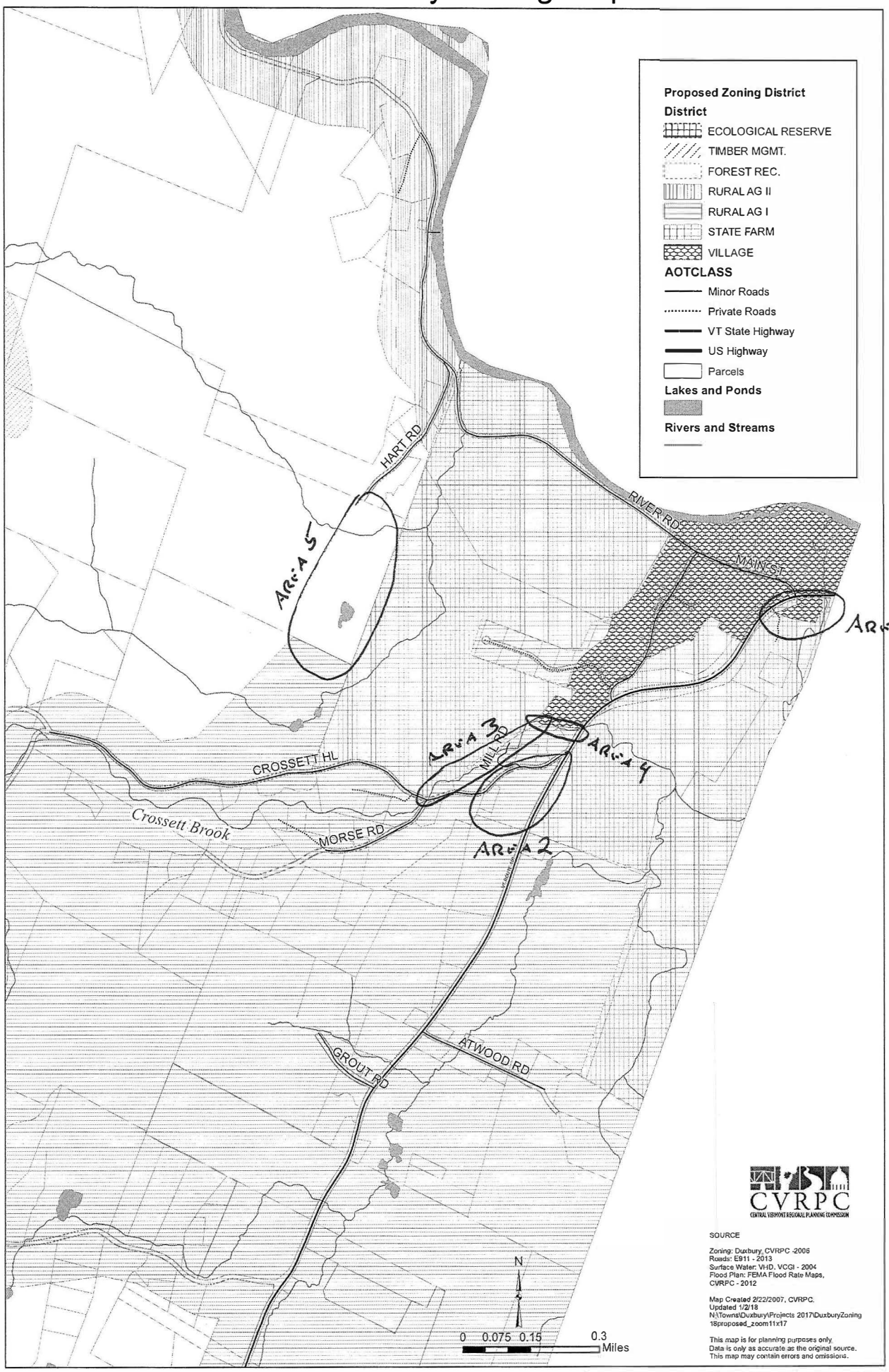
The corrections are shown on the following page, a large-scale map of the affected area. *Please note that the Flood Hazard Overlay District is not shown for clarity. The boundaries of the overlay district will not be affected by the proposed corrections.*

Area 1: The boundary between the Village and State Farm districts has been corrected to show the two parcels on the south and east side of Route 100 to be in the Village District.

Area 2: On the current zoning map, the Town-owned parcel where the town garage and town clerk's office are located is shown as being in the State Farm District. This is an error, as this parcel should be in the Rural – Agricultural I District.

Area 3: The boundary between the State Farm and Rural – Agricultural I districts has been redrawn to show that it follows Crossett Brook east of the point where Crossett Hill Road crosses the brook.

Area 4: The boundary between the Village and Rural – Agricultural I districts immediately east of Route 100 (at the Crossett Brook Middle School entrance) has been corrected to follow the brook.

Area 5: On the current map, a small section of the new town forest property along its eastern boundary is included in the State Farm and Rural – Agricultural I districts, while the bulk of the property is in the Forest – Recreation District. The district boundaries have been adjusted to include the entire eastern portion of the parcel in the Forest – Recreation District.

Duxbury Zoning Map